70

Vol. I

TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, [redacted] 1926

No. [redacted] 231

272

5

SWIFT & COMPANY, PETITIONER,

vs.

FEDERAL TRADE COMMISSION

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

E

PETITION FOR CERTIORARI FILED OCTOBER 19, 1925

CERTIORARI GRANTED NOVEMBER 23, 1925

(31,504)

(31,504)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1925

No. 781

SWIFT & COMPANY, PETITIONER,

vs.

FEDERAL TRADE COMMISSION

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

INDEX

	Page
Proceedings in the United States circuit court of appeals, seventh circuit	1
Petition for review	1
Order to file petition for review	3
Proceedings before Federal Trade Commission	4
Certificate of secretary of Federal Trade Commission	4
Caption (omitted in printing)	5
Resolution authorizing complaint	5
Bill of complaint	5
Answer	14
Amendment to answer	23
Order appointing examiner	25
Order setting hearing	26
Notices of taking testimony and evidence	27
Motion to separate causes	29
Motion to dismiss	30
Motion to exclude portion of complaint	32
Order excluding portion of complaint	32
Order assigning new docket number to excluded portion of complaint	33

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., DECEMBER 11, 1925

T50022

Page
Petition for intervention of Moultrie Chamber of Commerce..... 34
Order denying petition for intervention of Moultrie Chamber of Commerce 39
Petition for intervention of Andalusia Chamber of Commerce..... 40
Order denying petition for intervention of Andalusia Chamber of Commerce 48
Exceptions of Andalusia Chamber of Commerce to order denying petition for intervention..... 49
Motion to amend bill of complaint..... 50
Notice of hearing on motion to amend bill of complaint..... 52
Objections to motion to amend bill of complaint..... 53
Reply to objections to motion to amend bill of complaint..... 55
Order granting motion to amend bill of complaint..... 57
Amended bill of complaint..... 59
Findings of fact and conclusions of law..... 66
Order to cease and desist and to divest stock..... 89
Resolution of committee to modify findings of fact..... 92
Modified findings of fact..... 95
Certificate of secretary of Federal Trade Commission to statement of evidence..... 118
Statement of evidence..... 119
Appearances of counsel..... 119
Colloquy between examiner and counsel..... 119
Testimony of J. G. Smithwick..... 120
M. M. Stanaland..... 134
S. L. Simmons..... 152
V. J. Hendrix..... 153
M. M. Stanaland (recalled)..... 154
Frank Owen Miller..... 199
W. A. Gatlin..... 228
F. A. Luchsinger..... 229
T. A. Smith..... 238
F. A. Luchsinger (recalled)..... 241
T. A. Smith (recalled)..... 243
C. W. Harrison..... 245
W. C. Vereen..... 252
C. W. Harrison (recalled)..... 271
C. P. Ozburn..... 271
C. W. Harrison (recalled)..... 274
J. L. Thweatt..... 275
Edgar P. Allen..... 287
George D. Bauer..... 326
J. T. Hackney..... 341
E. B. Adams..... 342
C. B. McEntire..... 353
Edmund N. Wood..... 353
T. E. Henderson..... 360
Thomas G. Conner..... 391
Walter A. Davis..... 413
Mikle Schemer..... 420
A. H. Miller..... 421

Page

Testimony of J. A. Wisenfeld 455
W. M. Baker 456
Colloquy between examiner and counsel 459
Testimony of J. W. Bryce 460
Samuel T. Smith 466
David A. Dunaway 500
William D. Cordray 515
Stipulation as to Exhibit No. 133 520
Testimony of James T. Fitzpatrick 522
T. J. Vinzant 524
Otis T. Weeks 525
Ida A. Cooke 533
Chan B. Colt 536
John M. Chaplin 555
Harry C. Carr 565
Chan B. Colt (recalled) 587
C. H. Wallow 597
J. M. Chaplin (recalled) 606
Colloquy between examiner and counsel 616
Certificate of secretary of Federal Trade Commission 619
Appearances of counsel 620
Testimony of M. A. Bake 620
F. P. Rauschenberg 623
R. M. Reece 631
R. V. Bergen 632
F. A. Mitchell 632
L. W. Brown 636
R. E. Baron 640
T. D. Boly 640
Byron C. Kistner 643
W. O. Peavy 645
F. B. Randall 645
W. A. Perkins 646
E. B. Adams 649
W. H. White 655
R. A. Hill 657
Henry T. Golightly 662
M. M. Stanaland (recalled) 667
P. J. Saunders 688
B. A. Murphy 689
W. M. Baker 689
J. H. Weisenfeld 689
J. A. Gies 690
F. M. Hull 691
David A. Dunaway 692
M. F. McCook 693
A. J. Buist 693
J. W. Brice 694
H. M. Biser 696
Colloquy between examiner and counsel 698

	Page
Testimony of T. A. Smith	704
Testimony of H. McDowell	706
Colloquy between examiner and counsel	713
Testimony of C. L. Brooks	715
Testimony of H. McDowell (recalled)	727
Colloquy between examiner and counsel	730
Testimony of R. A. Stratford	734
W. H. Barber	758
C. W. Pidcock	774
C. B. Caldwell	795
W. J. Vereen	817
T. W. Vereen	831
J. H. Green	832
S. C. Hood	838
H. McDowell (recalled)	841
C. W. Isom	850
F. R. Pidcock	854
W. C. Vereen	872
J. W. Coleman	877
G. W. Newton	887
H. S. Davis	888
S. G. Long	891
L. A. Dickerson	895
H. S. Davis (recalled)	896
C. O. Huff	904
H. McDowell (recalled)	904
C. H. Wallow	923
H. McDowell (recalled)	924
R. W. Mathews, C. M. Williamson, and E. M. Fehey	925
H. H. McKee	927
Colloquy between examiner and counsel	930
Testimony of Oscar M. Duzzer	934
A. C. Darling	947
J. P. Wilson	962
J. L. Thweatt	987
T. E. Henderson	987
H. H. McKee (recalled)	996
J. L. Thewatt (recalled)	1036
H. H. McKee (recalled)	1039
W. A. Davis	1045
E. L. Saunders	1047
L. B. Well	1054
J. T. Hackney	1057
E. A. Colson	1057
R. R. Morris	1059
J. M. Brown	1059
W. B. Emond	1060
J. H. Green	1060
E. F. Blumeley	1061
Samuel Ritchey	1065

Page
Testimony of A. Halzer 1066
J. A. Snowden 1066
W. B. Wallace 1067
M. S. Moughon 1068
J. L. Thornton 1069
J. L. Thweatt (recalled) 1070
F. G. Brewer 1072
F. N. Phillips 1074
E. P. Allen (recalled) 1076
J. M. Wood 1137
Colloquy between examiner and counsel 1142
Testimony of George E. Putnam 1144
Testimony of F. A. Hunter 1161
Offers in evidence 1173
Testimony of John M. Chaplin 1176
Offers in evidence 1180
Testimony of George D. Rogers 1182
Offers in evidence 1224
Testimony of Edward A. Fox 1228
John M. Chaplin (recalled) 1232
J. R. Kitch 1236
Certificate of secretary of Federal Trade Commission 1237
Commission's Exhibit No. 1—Letter of May 19, 1917, Louis F. Swift to Edward F. Swift 1238
Commission's Exhibit No. 2—Letter of May 19, 1917, Louis F. Swift to Edward F. Swift 1240
Commission's Exhibit No. 3—Letter of May 19, 1917, Louis F. Swift to Edward F. Swift 1241
Commission's Exhibit No. 4—Letter of May 19, 1917 Louis F. Swift to Edward F. Swift 1241
Commission's Exhibit No. 5—Letter of May 19, 1917, Louis F. Swift to Edward F. Swift 1242
Commission's Exhibit No. 6—Letter of November 23, 1917, Swift & Co. to Albert H. and Henry Veeder 1242
Commission's Exhibit No. 7—Letter of November 26, 1917, to Swift & Co. 1243
Commission's Exhibit No. 8—Letter of November 28, 1917, Swift & Co. to Albert H. and Henry Veeder 1244
Commission's Exhibit No. 9—Letter of November 30, 1917, to Swift & Co. 1245
Commission's Exhibit No. 10—Letter of November 30, 1917, to F. S. Hayward 1245
Commission's Exhibit No. 11—Letter of December 18, 1917, to F. S. Hayward 1246
Commission's Exhibit No. 12—Letter of December 19, 1917, F. S. Hayward to Albert H. and Henry Veeder 1246
Commission's Exhibit No. 13—Letter of February 9, 1921, to F. S. Hayward 1247
Commission's Exhibit No. 13*a*—Call of special meeting of stockholders of Moultrie Packing Co., dated December 21, 1917.. 1248

Page

Commission's Exhibit No. 13b—Minutes of special meeting of stockholders of Moultrie Packing Co. 1249
Commission's Exhibit No. 13c—Notice of special meeting of stockholders of Moultrie Packing Co. 1251
Commission's Exhibit 13d—Affidavit as to the mailing of a copy of notice of special meeting of stockholders 1251
Commission's Exhibit No. 14—Letter of January 10, 1918, to F. S. Hayward 1252
Commission's Exhibit No. 15—Letter of January 11, 1918, F. S. Hayward to Albert H. and Henry Vessler 1252
Commission's Exhibit No. 16—Letter of January 14, 1918, to F. S. Hayward 1253
Commission's Exhibit No. 17—Letter of June 28, 1917, H. C. Carr to T. E. Henderson 1253
Commission's Exhibit No. 18—Letter of July 2, 1917, T. E. Henderson to H. C. Carr 1255
Commission's Exhibit No. 19—Letter of July 6, 1917, H. C. Carr to Robert F. Fisher 1258
Commission's Exhibit No. 20—Letter of July 9, 1917, H. C. Carr to T. E. Henderson 1259
Commission's Exhibit No. 21—Telegram of July 11, 1917, R. F. Fisher to Albert H. and Henry Vessler 1260
Commission's Exhibit No. 22—Letter of July 14, 1917, to Louis F. Swift 1260
Commission's Exhibit No. 23—Memorandum in regard to Andalusia Packing Company trade guarantees, etc., dated July 20, 1917, H. C. Carr to W. B. Traynor 1262
Commission's Exhibit No. 24—Letter of July 25, 1917, to G. D. Rogers 1267
Commission's Exhibit No. 25—Letter of August 18, 1917, to C. A. Peacock 1267
Commission's Exhibit No. 26—Letter of April 9, 1918, Swift & Co. to Albert H. and Henry Vessler 1268
Commission's Exhibit No. 27—Letter of April 23, 1918, F. S. Hayward to Albert H. and Henry Vessler 1269
Commission's Exhibit No. 28—Minutes of meeting of directors, held May 22, 1917 1269
Commission's Exhibit No. 29—Page of Swift & Co. general journal voucher, showing certain credit account of $188,550.00 1273
Commission's Exhibit No. 30—Page of Swift & Co. general journal voucher, showing certain debit account of $188,550.00 1275
Commission's Exhibit No. 31—Petition seeking formation of a corporation to be known as the Moultrie Packing Company .. 1277
Commission's Exhibit No. 32—Certified copy of order granting the petition for formation of the Moultrie Packing Company. 1278
Commission's Exhibit No. 33—By-laws of Moultrie Packing Company 1279

Page

Commission's Exhibit No. 34—Minutes of adjourned annual meeting of stockholders of Moultrie Packing Co., held August 13, 1917 1281
Commission's Exhibit No. 35—Minutes of special meeting of board of directors of Moultrie Packing Co., held November 3, 1917 1283
Commission's Exhibit No. 36—Call of special meeting of stockholders of Moultrie Packing Co., dated December 21, 1917 1284
Commission's Exhibit No. 37—Minutes of special meeting of stockholders of Moultrie Packing Co., held January 5, 1918 1285
Commission's Exhibit No. 38—Affidavit of C. H. Wallow as to mailing notice of special meeting of stockholders 1287
Commission's Exhibit No. 39—Notice of special meeting of stockholders of Moultrie Packing Co 1287
Commission's Exhibit No. 40—By-laws of Andalusia Packing Co 1288
Commission's Exhibit No. 41—Minutes of special meeting of board of directors of Andalusia Packing Co., held July 24, 1917 1293
Commission's Exhibit No. 42—Minutes of special meeting of stockholders of Andalusia Packing Co., held July 24, 1917 1295
Commission's Exhibit No. 43—Minutes of special meeting of board of directors of Andalusia Packing Co., held August 7, 1917 1299
Commission's Exhibit No. 44—Minutes of meeting of directors of Andalusia Packing Co., held August 14, 1917 1300
Commission's Exhibit No. 45—Minutes of regular annual meeting of stockholders of Andalusia Packing Co., held October 8, 1917 1300
Commission's Exhibit No. 46—Minutes of adjourned meeting of board of directors of Andalusia Packing Co., held October 29, 1917 1301
Commission's Exhibit No. 47—Minutes of meeting of directors of Andalusia Packing Co., held March 26, 1918 1302
Commission's Exhibit No. 48—Minutes of special meeting of board of directors of Andalusia Packing Co., held March 30, 1918 1303
Commission's Exhibit No. 49—Minutes of special meeting of board of directors of Andalusia Packing Co., held June 29, 1918 1305
Commission's Exhibit No. 50—Contract between T. E. Henderson et al. and G. F. Swift, Jr., dated July 24, 1917 1305
Commission's Exhibit No. 50*a*—Memorandum of obligations of Andalusia Packing Co., May 1, 1917 1308
Commission's Exhibit No. 51—Guarantee signed by T. E. Henderson and A. C. Darling, dated July 24, 1917 1310
Commission's Exhibit No. 52—Agreement signed by T. E. Henderson and A. C. Darling, dated July 24, 1917 1310

Page

Exhibit "A"—Statement of assets and liabilities of Andalusia Packing Co., May 1, 1917 1311
Commission's Exhibit No. 53—Financial statement as of April 30, 1917, of Moultrie Packing Co. 1312
Commission's Exhibit No. 54—Cattle production report summary, April, 1917 1316
Commission's Exhibit No. 55—Hog production report, April, 1917 1317
Commission's Exhibit No. 56—Report of W. A. Burnett 1317
Commission's Exhibit No. 57—Report of O. C. E. Matthies to H. J. Nelson, dated June 1, 1917 1322
Commission's Exhibit No. 58—Invoice 1333
Commission's Exhibit No. 59—Letter of March 2, 1921, W. C. Vereen to M. M. Stanaland 1335
Commission's Exhibit No. 60—Invoice or bill, dated April 27, 1917, Andalusia Packing Co. to S. L. Simmons 1337
Commission's Exhibit No. 61—Invoice or bill, dated April 6, 1917, Andalusia Packing Co. to S. L. Simmons 1339
Commission's Exhibits Nos. 62-65, Inclusive—Tabulation of products sold to S. L. Simmons, Columbia, Georgia, by Swift & Co. 1341
Commission's Exhibit No. 66—Letter of April 11, 1917, Andalusia Packing Co. to S. L. Simmons 1341
Commission's Exhibit No. 67—Letter of June 18, 1917, W. C. Vereen to M. M. Stanaland 1342
Commission's Exhibit No. 68—Letter of July 12, 1917, Moultrie Packing Co. to M. M. Stanaland 1342
Commission's Exhibit No. 69—Letter of October 22, 1917, Moultrie Packing Co. to M. M. Stanaland Co. 1343
Commission's Exhibit No. 70—Letter of January 22, 1917, Moultrie Packing Co. to M. M. Stanaland 1343
Commission's Exhibit No. 71—Letter of July 2, 1917, Andalusia Packing Co. to J. W. Clark Co. 1344
Commission's Exhibit No. 72—Letter of July 10, 1917, Andalusia Packing Co. to J. W. Clark Co. 1344
Commission's Exhibit No. 73—Telegram of July 14, 1917, Andalusia Packing Co. to J. W. Clarke Co. 1345
Commission's Exhibit No. 74—Letter of July 16, 1917, Andalusia Packing Co. to J. W. Clark Co. 1345
Commission's Exhibit No. 75—Letter of July 19, 1917, Andalusia Packing Co. to J. W. Clark Co. 1346
Commission's Exhibit No. 76—Letter of July 25, 1917, Andalusia Packing Co. to J. W. Clark Co. 1346
Commission's Exhibit No. 77—Telegram of July 31, 1917, Andalusia Packing Co. to J. W. Clark Co. 1347
Commission's Exhibit No. 78—Letter of August 10, 1917, Andalusia Packing Co. to J. W. Clark Co. 1347
Commission's Exhibit No. 79—Letter of August 15, 1917, Andalusia Packing Co. to J. W. Clark Co. 1348
Commission's Exhibit No. 80—Letter of August 17, 1917, Andalusia Packing Co. to J. W. Clark Co. 1349

Page

Commission's Exhibit No. 81—Telegram of August 21, 1917, Andalusia Packing Co. to J. W. Clark Co. 1349
Commission's Exhibit No. 82—Letter of August 21, 1917, Andalusia Packing Co. to J. W. Clark Co. 1350
Commission's Exhibit No. 83—Letter of August 25, 1917, Andalusia Packing Co. to J. W. Clark Co. 1350
Commission's Exhibit No. 84—Telegram of September 11, 1917, Andalusia Packing Co. to J. W. Clark Co. 1351
Commission's Exhibit No. 85—Price list furnished the J. W. Clark Co. by the Andalusia Packing Co. for week ending September 8, 1917 1352
Commission's Exhibit No. 86—Letter of September 13, 1917, Andalusia Packing Co. to J. W. Clark Co. 1354
Commission's Exhibit No. 87—Letter of September 21, 1917, Andalusia Packing Co. to J. W. Clark Co. 1354
Commission's Exhibit No. 88—Telegram of September 19, 1917, Andalusia Packing Co. to J. W. Clarke Co. 1355
Commission's Exhibit No. 89—Letter of September 22, 1917, Andalusia Packing Co. to J. W. Clarke Co. 1355
Commission's Exhibit No. 90—Letter of September 25, 1917, Andalusia Packing Co. to J. W. Clarke Co. 1356
Commission's Exhibit No. 91—Letter of September 29, 1917, Andalusia Packing Co. to J. W. Clarke Co. 1356
Commission's Exhibit No. 92—Telegram of October 4, 1917, Andalusia Packing Co. to J. W. Clarke Co. 1357
Commission's Exhibit No. 93—Telegram of October 8, 1917, Andalusia Packing Co. to J. W. Clarke Co. 1357
Commission's Exhibit No. 94—Letter of October 12, 1917, Andalusia Packing Co. to J. W. Clarke Co. 1358
Commission's Exhibit No. 95—Letter of October 15, 1917, Andalusia Packing Co. to J. W. Clarke Co. 1359
Commission's Exhibit No. 96—Letter of October 19, 1917, Andalusia Packing Co. to J. W. Clarke Co. 1360
Commission's Exhibit No. 97—Special report, slaughtering and meat packing, Schedule B, of Moultrie Packing Co. 1361
Commission's Exhibit No. 98—Letter of October 5, 1917, Moultrie Packing Co. to Federal Trade Commission 1373
Commission's Exhibit No. 99—Letter of October 5, 1917, Moultrie Packing Co. to Federal Trade Commission 1373
Commission's Exhibit No. 100—Letter of October 5, 1917, Moultrie Packing Co. to Federal Trade Commission 1374
Commission's Exhibit No. 101—Report of Moultrie Mfg. Co., made September 17, 1917, for the last five fiscal years 1374
Letter of September 17, 1917, Moultrie Packing Co. to Federal Trade Commission 1385
Letter of February 11, 1918, Federal Trade Commission to Moultrie Packing Co. 1386
Letter of February 20, 1918, Swift & Co. to Federal Trade Commission 1386

Page

Commission's Exhibit No. 102—Letter of October 25, 1917, to F. A. Luchsinger..... 1387
Commission's Exhibits Nos. 104 and 104*a*—Moultrie Packing Co. account with M. M. Stanaland..... 1388
Commission's Exhibit No. 105—Statement showing sales to Swift & Co. during 1917..... 1393
Commission's Exhibit No. 106—Letter of October 6, 1917, M. M. Stanaland to Moultrie Packing Co..... 1394
Commission's Exhibit No. 107—Letter of October 13, 1917, to Moultrie Packing Co..... 1394
Commission's Exhibit No. 108—Letter of October 20, 1917, to Moultrie Packing Co..... 1395
Commission's Exhibit No. 109—Letter of January 29, 1917, M. M. Stanaland to W. C. Vereen..... 1396
Commission's Exhibit No. 110—Bank book, Birmingham Trust & Savings Co. in account with Andalusia Packing Co. (physical exhibit, referred to)..... 1398
Commission's Exhibit No. 111—Option signed by A. C. Darling and F. E. Henderson, dated June 8, 1917..... 1398
Commission's Exhibit No. 112—Operating statement of Andalusia Packing Co. for period ending May 1, 1917..... 1399
Commission's Exhibit No. 113—Letter of July 11, 1917, H. C. Carr to T. E. Henderson..... 1401
Commission's Exhibit No. 114—Invoice or bill, dated July 21, 1917, Andalusia Packing Co. in account with Swift & Co.... 1403
Commission's Exhibit No. 115—Invoice or bill, dated October 6, 1917, Andalusia Packing Co. in account with Swift & Co. 1405
Commission's Exhibit No. 116—Statement of meat products purchased from Moultrie Packing Co. during year 1916 and 1917 1407
Commission's Exhibit No. 116*a*—Statement of meat products purchased from Moultrie Packing Co., year 1915 and 1916.. 1411
Commission's Exhibit No. 117—Letter of July 12, 1917, J. W. Clarke Co. to Andalusia Packing Co..... 1415
Commission's Exhibit No. 118—Letter of July 20, 1917, J. W. Clarke Co. to Andalusia Packing Co..... 1415
Commission's Exhibit No. 119—Letter of July 28, 1917, J. W. Clarke Co. to Andalusia Packing Co..... 1416
Commission's Exhibit No. 120—Letter of August 9, 1917, J. W. Clarke Co. to Andalusia Packing Co..... 1417
Commission's Exhibit No. 121—Letter of August 16, 1917, J. W. Clarke Co. to Andalusia Packing Co..... 1418
Commission's Exhibit No. 122—Letter of September 12, 1917, J. W. Clarke Co. to Andalusia Packing Co..... 1419
Commission's Exhibit No. 123—Letter of September 18, 1917, J. W. Clarke Co. to Andalusia Packing Co..... 1420
Commission's Exhibit No. 124—Letter of September 22, 1917, J. W. Clarke Co. to Andalusia Packing Co..... 1421
Commission's Exhibit No. 125—Letter of September 24, 1917, J. W. Clarke Co. to Andalusia Packing Co..... 1422

Page

Commission's Exhibit No. 126—Letter of October 4, 1917, J. W. Clarke Co. to Andalusia Packing Co. 1423
Commission's Exhibit No. 127—Letter of October 15, 1917, J. W. Clarke Co. to Andalusia Packing Co. 1423
Commission's Exhibit No. 128—Letter of October 23, 1917, J. W. Clarke Co. to Andalusia Packing Co. 1424
Commission's Exhibit No. 129—Letter of October 23, 1917, J. W. Clarke Co. to Andalusia Packing Co. 1425
Commission's Exhibit No. 130—Letter of October 23, 1917, J. W. Clarke Co. to Andalusia Packing Co. 1426
Commission's Exhibit No. 131—Letter of October 24, 1917, J. W. Clarke Co. to Andalusia Packing Co. 1426
Commission's Exhibit No. 132—Letter of June 22, 1917, J. W. Clarke Co. to Andalusia Packing Co. 1427
Statement re Commission's Exhibit No. 133 1428
Commission's Exhibits Nos. 134-139, Inclusive—Tabulation of products sold to Jeffries Market, Jacksonville, Fla., by Moultrie Packing Co. 1428
Commission's Exhibit No. 140—Statement of purchases of Swift & Co., Jacksonville, Fla., from Moultrie Packing Co., Moultrie, Ga., year 1917 1429
Commission's Exhibit No. 141—Statement of purchase of Swift & Co., Jacksonville, Fla., from Moultrie plant of Swift & Co., Moultrie, Ga., year 1917 1430
Commission's Exhibit No. 142—Entries taken from J. F. Fitzpatrick's book 1430
Commission's Exhibits Nos. 143-145, Inclusive—Tabulation of products sold to Vinzant Bros., Jacksonville, Fla., by Moultrie Packing Co. 1437
Commission's Exhibits Nos. 146 and 147—Tabulation of products sold to Vinzant Bros., Jacksonville, Fla., by Swift & Co. 1437
Commission's Exhibit No. 148—Check of Vinzant Bros. to order of Moultrie Packing Co. for $12.46, dated June 5, 1917 1439
Commission's Exhibits Nos. 149-165, Inclusive—Tabulation of products sold to Cooke & Weeks, Jacksonville, Fla., by Moultrie Packing Co. 1441
Commission's Exhibits Nos. 166-182, Inclusive—Tabulation of products sold to Cooke & Weeks, Jacksonville, Fla., by Moultrie Packing Co. 1444
Commission's Exhibit No. 183—Slaughtering and meat packing special report, Schedule A, of Andalusia Packing Co., dated September 20, 1917 1447
Commission's Exhibit No. 184—Page 4 of a report of Andalusia Packing Co. 1467
Commission's Exhibit No. 185—Report of Andalusia Packing Co., dated October 5, 1917 (Schedule A-23) (page 5) 1469
Commission's Exhibit No. 192—Report of Andalusia Packing Co. made by Chan B. Colt (pages 7 and 10) 1471
Commission's Exhibit No. 186—Statement of investment entries in connection with the acquisition of Moultrie Packing Co. captal stock 1476

Page
Commission's Exhibit No. 187—Deed from Andalusia Packing Co. to Swift & Co., dated March 30, 1918 1477
Commission's Exhibit No. 188—Bill of sale of Andalusia Packing Co. to Swift & Co., dated March 30, 1918 1480
Commission's Exhibit No. 189—Deed from Moultrie Packing Co. to Swift & Co., dated November 24, 1917 1481
Commission's Exhibit No. 190—Bill of sale of Moultrie Packing Co. to Swift & Co., dated November 3, 1917 1483
Commission's Exhibit No. 191—Letter of October 9, 1917, Albert H. and Henry Vesler to R. C. McManus 1485
Commission's Exhibit No. 193—Statement of assets of Moultrie Packing Co., dated November 3, 1917 1486
Commission's Exhibit No. 194—Statement of values transferred on bill of sale 3/30/19—Andalusia, Alabama 1487
Commission's Exhibit No. 195—Moultrie weekly differential letter No. 25 1488
Commission's Exhibit No. 196—Moultrie weekly differential letter No. 28 1490
Commission's Exhibit No. 197—Southern and Western Branch House price list issued by Swift & Co., June 20, 1921 1492
Commission's Exhibit No. 198—Southern and Western Branch House price list issued by Swift & Co. 1503
Respondent's Exhibit No. 1—Letter from chairman of Federal Trade Commission to the President of the Senate, dated February 2, 1920 1521
Report of Federal Trade Commission on southern livestock prices 1525
Respondent's Exhibit No. 2—A press summary released for use on July 12, 1921, by the Bureau of the Census, Department of Commerce, covering live stock and livestock products in the State of Georgia (description of) 1539
Respondent's Exhibit No. 3—Statement of live stock slaughtered by years, Moultrie, Ga., plant 1540
Respondent's Exhibit No. 4—Eleven statements showing the weekly statement of E. N. Wood, Birmingham, Alabama, with Moultrie Packing Co., Moultrie, Ga. 1541
Respondent's Exhibit No. 5—Nineteen statements showing the weekly statement of M. M. Stanaland, Atlanta, Ga., with Moultrie Packing Co., Moultrie, Ga. 1543
Respondent's Exhibit No. 6—Twenty-one statements showing the weekly statement of Sam T. Smith, Jacksonville, Fla., with the Moultrie Packing Co., Moultrie, Ga. 1547
Respondent's Exhibit No. 7—Statement of cars to Swift & Co. Branch Houses, from Moultrie, Georgia, plant 1551
Respondent's Exhibit No. 8—Statement of sales to Swift & Co., Jacksonville, Fla., from Moultrie plant 1552
Respondent's Exhibit No. 9—Photograph 1553
Respondent's Exhibit No. 10—Photograph 1555
Respondent's Exhibit No. 13—Statement of investment in buildings and machinery of Swift & Co. at Moultrie, Ga., October 30, 1920 1557

Page

Respondent's Exhibit No. 17—Hog feeding experiments conducted by Georgia State College of Agriculture, Division of Animal Husbandry, Athens, Ga., and Swift & Co., Moultrie, Ga., co-operating 1560
Respondent's Exhibit No. 18—Statement, "Results by Years" .. 1562
Respondent's Exhibit No. 19—Statement of prices paid for cotton by Moultrie Cotton Mills, Moultrie, Ga 1563
Respondent's Exhibit No. 20—Statement of outside purchases by years of Moultrie, Ga., plant 1565
Respondent's Exhibit No. 21—Georgia Northern Railway Co., Flint River & Northeastern Railroad Co., statement of packing-house products and live stock received at and forwarded from Moultrie, Ga., January 1, 1914, to December 31, 1920, inclusive 1568
Respondent's Exhibit No. 22—Schedule B, Andalusia Packing Co. 1165
Respondent's Exhibit No. 23—Statement of results of operation of the Andalusia plant, fiscal years 1569
Respondent's Exhibit No. 24—Statement of cattle killed by months, Andalusia, Alabama 1569
Respondent's Exhibit No. 25—Statement of hogs killed by months, Andalusia, Alabama 1570
Respondent's Exhibit No. 26—Statement of outside purchases, Swift & Co., Andalusia, Alabama, monthly, for last three months of fiscal year of 1917, fiscal years 1918, 1919, 1920, and 1921, to and including June 1570
Respondent's Exhibit No. 27—Statement of investment accounts, Andalusia, Alabama 1571
Respondent's Exhibit No. 28—Statement showing numbers of hogs and average live cost by months, October, 1916, to July, 1917, at Andalusia, Ala 1571
Respondent's Exhibit No. 29—Statement showing number of hogs purchased and average live cost by months, August, 1917, to June 4, 1921, Andalusia, Ala 1572
Respondent's Exhibit No. 30—Statement of cars forwarded from Andalusia, Ala., July 30, 1917, to July 25, 1921 1574
Respondent's Exhibit No. 32—Extracts from service and regulatory announcements issued by the Bureau of Animal Industry, United States Department of Agriculture 1575
Respondent's Exhibit No. 36—Statement of Swift & Co. of number of animals slaughtered, by fiscal years 1576
Respondent's Exhibit No. 44—Letter of May 5, 1919, addressed to Swift & Co., manager's office, Andalusia, Ala 1576
Respondent's Exhibit No. 45—Andalusia weekly differential letter No. 31 1577
Respondent's Exhibit No. 46—Swift & Co. weekly concession letter No. 16 1578
Respondent's Exhibit No. 47—Andalusia weekly differential letter No. 30 1579
Respondent's Exhibit No. 49—Railroad map 1581

	Page
Respondent's Exhibit No. 57—Andalusia weekly differential letter No. 37	1584
Respondent's Exhibit No. 58—Moultrie weekly differential letter No. 37	1586
Stipulation re transcript of record	1588
Affidavit of Adrien F. Busick	1589
Order re physical exhibits	1591
Clerk's certificate	1593
Caption	1595
Minute entries	1595
Appearance of counsel	1596
Stipulation re transcript of record	1597
Affidavit of Adrien F. Busick	1598
Order re exhibits	1600
Appearance of counsel	1601
Order to file reply brief	1601
Order granting J. J. Hill leave to appear amicus curiæ	1602
Argument and submission	1602
Opinion, Evans, J.	1603
Judgment	1611
Order extending time	1612
Order denying petition for rehearing	1613
Clerk's certificate	1615
Order allowing certiorari	1616

IN THE UNITED STATES CIRCUIT OF APPEALS, Filed Oct 1922.

For the Seventh Circuit.

October Term, A. D. 1922.

Swift & Company,
Petitioner,
vs.
Federal Trade Commission,
Respondent.

Petition to Review Order of Federal Trade Commission.

To the Honorable, the Judges of the United States Circuit Court of Appeals for the Seventh Circuit:

Swift & Company, petitioner, respectfully represents that it is a corporation duly organized and existing under the laws of the State of Illinois, having is principal office in this Circuit at the City of Chicago, Illinois, where it resides and carries on business.

Petitioner further represents that on August 3, 1922, the Federal Trade Commission, in a certain proceeding entitled "Federal Trade Commission v. Swift & Company—Docket 453," entered a certain order wherein and whereby petitioner, Swift & Company, shall:

"(1) Cease and desist from further violating Section 7 of the Clayton Act by continuing to own or hold, either directly or indirectly, by itself or by any one for its use and benefit, any of the capital stock of the Moultrie Packing Company and of the Andalusia Packing Company, or either of them, and Cease and Desist from holding, controlling and/or operating, or causing to be held, controlled and/or operated by others for its use and benefit, the former property and business either of the said Moultrie Packing Company or of the said Andalusia Packing Company which have been held, controlled and operated by respondent and its employes and agents, following and as a result of respondent's unlawful acquisition of the capital stocks of said named corporations: and to that end, respondent shall

(2) So divest itself of all the capital stocks heretofore acquired by respondent, including all the fruits of such acquisitions, in whatever form they now are, whether held by respondent or by any one for its use and benefit, of the Moul-

trie Packing Company, a corporation, and of the Andalusia Packing Company, a corporation, or either of them, in such manner that there shall not remain to respondent, either directly or indirectly, any of the fruits of said acquisitions, including the control and/or operations of said corporations, or either of them, resulting from such acquisitions and/or holdings of such capital stocks.

(3) In so divesting itself of such capital stocks respondent shall not sell or transfer, either directly or indirectly, any of such capital stocks to any officer, director, stockholder, employe or agent of respondent, or to any person under the control of respondent, or to any partnership or corporation either directly or indirectly owned or controlled by respondent.

(4) Cease and Desist from further engagements in unfair methods of competition in violation of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and in so ceasing and desisting, shall Cease and Desist from further suppressing the competition in trade heretofore existing between the Moultrie Packing Company and the Andalusia Packing Company, and between each of said corporations and the respondent, and also Cease and Desist from further holding, owning, controlling, and/or operating, directly or indirectly, the plants and businesses of the said Moultrie Packing Company and the Andalusia Packing Company, or either of them, either through direct or indirect ownership and/or control of the capital stock of either said Moultrie Packing Company or said Andalusia Packing Company and/or through the control and/or ownership of the properties, physical assets and businesses of either of said named corporations.

It Is Further Ordered, that the said respondent, Swift and Company, shall within ninety (90) days from the date of service of this order, file with the Commission a report setting forth in detail the manner and form in which it has complied with the order of the Commission herein set forth."

Petitioner files this petition to obtain a review of the aforesaid order to cease and desist, so entered by the Federal Trade Commission on August 3, 1922, in its proceeding against petitioner entitled, "Federal Trade Commission v. Swift & Company—Docket 453."

Wherefore, petitioner prays that a certified copy of this petition be forthwith served by the Clerk of this Court upon said Federal Trade Commission, to the end that said Com-

mission may be required, in conformity with the statute, to certify and file in this Court a transcript of the entire record in the proceeding aforesaid wherein said order of August 3, 1922 was entered, including all the testimony taken and the report and order of the Commission; and that upon review of said order in and by this Honorable Court, the said order of the Federal Trade Commission be set aside.

SWIFT & COMPANY,
By ALBERT H. and HENRY VEEDER,
JAMES M. SHEEAN,
FRANK L. HORTON,
Its Attorneys.

IN THE UNITED STATES CIRCUIT COURT OF APPEALS,

For the Seventh Circuit.

October Term, A. D., 1922.

Swift & Company, *Petitioner,* vs. Federal Trade Commission, *Respondent.*	Petition to Review Order of Federal Trade Commission.

Now this day comes Swift & Company, by Albert H. and Henry Veeder, James M. Sheean and Frank L. Horton, its attorneys, and presents a petition to review an order to cease and desist entered against the petitioner by Federal Trade Commission on the 3rd day of August, 1922, in a cause lately pending before said Commission entitled, "Federal Trade Commission v. Swift & Company—Docket 453."

It is now here ordered that the said petition to review be filed and that a certified copy of said petition be forthwith served by the Clerk of this Court upon said Federal Trade Commission, and that said Federal Trade Commission, upon service of such copy, forthwith certify and file in this Court a transcript of the record of said cause.

Enter BAKER,
Judge.

(Endorsed) No. 3215 In the United States Circuit Court of Appeals for the Seventh Circuit. October Term, A. D., 1922. Swift & Company, Petitioner v. Federal Trade Commission, Respondent. Petition to Review Order of Federal Trade Commission Attorneys:—Albert H. and Henry Veeder 76 West Monroe Street, Tel: Central 6000. James M. Sheean, 105 So. LaSalle Street, Tel: Central 8295. Frank L. Horton, Union Stock Yards, Tel: Yards 4200. Filed Oct 24 1922 Edward M. Holloway Clerk

ate of
tary of
ral
e Com-
ion, filed
24, 1923.

1 UNITED STATES OF AMERICA,

BEFORE FEDERAL TRADE COMMISSION: ss.

Federal Trade Commission
vs.
Swift & Company.
} Docket No. 453.

I, Otis B. Johnson, Secretary of the Federal Trade Commission, do hereby certify that hereunto annexed is a full, true and correct transcript of the proceedings had before the Federal Trade Commission in the above entitled case, except the testimony and exhibits, which are bound separately.

That this transcript is certified to the United States Circuit Court of Appeals for the Seventh Circuit, by reason of the filing in the said Court of a petition for review of the Order to Cease and Desist and to Divest Stock entered by said Federal Trade Commission under date of August 3, 1922.

OTIS B. JOHNSON,
OTIS B. JOHNSON,
Secretary, Federal Trade Commission.

(Seal)

(Endorsed) Filed Sep 24 1923 Edward M. Holloway Clerk

FEDERAL TRADE COMMISSION.

Docket No. 453.

Section I.

Copy of Resolution authorizing Complaint.

Copy of Complaint.

3 UNITED STATES OF AMERICA. Dated No 1919.

BEFORE FEDERAL TRADE COMMISSION: ss.

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 24th day of November, A. D., 1919.

Present:

John Franklin Fort, Chairman,
Victor Murdock,
Huston Thompson,
William B. Colver,
Commissioners.

Federal Trade Commission
vs.
Swift & Company. } Docket No. 453.

Complaint in the matter of the alleged violation of Section 5 of an Act of Congress approved September 26, 1914 and of Section 7 of an Act of Congress approved October 15, 1914.

Whereas: The Federal Trade Commission has reason to believe that Swift & Company, has violated and is violating the provisions of Section 5 of an Act of Congress, approved September 26, 1914 and of Section 7 of an Act of Congress approved October 15, 1914, and it appearing to the Commission that a proceeding by it in respect thereof would be to the interest of the public, therefore be it

Resolved: That the Federal Trade Commission issue and serve upon the said Swift & Company, its complaint, stating its charges in that respect in substantially the form hereunto annexed, and be it

Further Resolved: That notice be given to the said Swift & Company, as required by law, that the charges of said complaint will be heard by the Commission at its offices in the Federal Trade Commission Building, in the City of Washington, D. C., on the 12th day of January, A. D., 1920, at 10:30 o'clock in the forenoon of the said day, or as soon thereafter as the same may be reached.

Adopted by the Commission.

(Signed) J. P. YODER.
Secretary.

(Seal)

aint, d Nov. 1919.

4 UNITED STATES OF AMERICA,

BEFORE FEDERAL TRADE COMMISSION: ss.

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 24th day of November, A. D., 1919.

Present:

John Franklin Fort, Chairman,
Victor Murdock,
Huston Thompson,
William B. Colver,
Commissioners.

Federal Trade Commission
vs.
Swift & Company.
} Docket No. 453.

Complaint in the matter of the alleged violation of Section 7 of an Act of Congress approved October 15, 1914, and Section 5 of an Act of Congress approved September 26, 1914.

I.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it that Swift & Company, hereinafter referred to as the respondent, has been and is violating the provisions of Section 7 of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," issues this complaint, stating its charges in that respect on information and belief as follows:

Paragraph One: That the respondent, Swift & Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at the City of Chicago, in said State, and has been and is now and at all times hereinafter mentioned engaged in the business of slaughtering live stock, and of producing and dealing in meats and all kinds of products and by-products arising out of the slaughtering of live stock, including leather; said products, by-products and commodities being sold by respondent in the

various States of the United States, the territories thereof, and the District of Columbia, and when sold respondent causes same to be transported from one or more of said States and territories through and into other States and Territories of the United States and the District of Columbia.

Paragraph Two: That the Moultrie Packing Company at all the times hereinafter mentioned, was a corporation organized and existing under the laws of the State of Georgia, with its principal place of business at Moultrie, in said State, and was engaged in the business of slaughtering live stock and of producing and dealing in meats and all kinds of products and by-products arising out of the slaughtering of live stock, causing said products and by-products to be transported when sold, from the State of Georgia, through and into other States of the United States, the territories thereof and to the District of Columbia, and prior to June 1, 1917, was in direct competition with respondent and other persons, partnerships and corporations similarly engaged.

5 Paragraph Three: That Section 7 of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes" is and provides, in part, as follows:

"That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged also in commerce, where the effect of such acquisition may be to substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce."

Paragraph Four: That on or about June 1, 1917, the respondent purchased 956 shares of the total of 966 shares of the capital stock of said Moultrie Packing Company issued and outstanding and caused the same to be transferred on the ployees of the respondent, who thereby became and remained record holders of said stock, but who held the same for the use and benefit of the respondent; that thereafter on or about the 15th day of August, 1917, the respondent caused its said officers and employees who held the said stock to hold a stockholders' meeting of said company and at such meeting to elect as directors of said Moultrie Packing Company certain officers and employees of the respondent; that thereafter the respondent arranged to acquire the physical assets and

properties of the said Moultrie Packing Company and caused its said officers and employees, who were the directors and stockholders thereof, to accept an offer of purchase from the respondent and to pass a resolution directing a division of the surplus assets of the Moultrie Packing Company among the stockholders of said company, and a sale of the remaining assets, including the plant, fixtures, machinery and good-will of said company to the respondent; that said sale and transfer was authorized by the Board of Directors of said Moultrie Packing Company composed of officers and employees of the respondent, on or about November 3, 1917, and was ratified at a special meeting of the stockholders of said company, all of whom were officers and employees of the respondent, on or about June 5, 1918; that the effect of all the foregoing was to substantially lessen competition between respondent and said Moultrie Packing Company; to restrain commerce in the section and community of and adjacent to Moultrie, Georgia, and elsewhere; and to tend to create a monopoly of the lines of commerce carried on by the respondent and said Moultrie Packing Company.

Paragraph Five: That the transfer and issue of said stock of the said Moultrie Packing Company to officers and employees of the respondent, the election of employees and officers of respondent as directors and officers of said Moultrie Packing Company and the pretended sale by such officers of the physical assets and properties of said Moultrie Packing Company to the respondent were intended by the respondent to conceal the acquisition by it of the said stock of said Moultrie Packing Company and were intended as a device to evade the provisions of Section 7 of the said Act of Congress approved October 15, 1914.

6 II.

And the Federal Trade Commission, having reason to believe from a preliminary investigation made by it, that Swift & Company, hereinafter referred to as respondent, has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and it appearing that a proceeding by it in respect thereof would be to the interest of the public, issues this complaint stating its charges in that respect on information and belief as follows:

Paragraph One: As grounds for said complaint, said Commission relies upon the matters and things set out in paragraphs One, Two and Four of count I of this complaint, to the same extent as though the allegations thereof were set out at length herein, and said paragraph One, Two and Four are incorporated herein by reference and adopted as a part of the allegations of this count.

III.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it that Swift & Company, hereinafter referred to as the respondent, has been and is violating the provisions of Section 7 of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," issues this complaint stating its charges in that respect on information and belief as follows:

Paragraph One: As grounds for said complaint, said Commission relies upon the matters and things set out in paragraph One of count I of this complaint, to the same extent as though the allegations thereof were set out at length herein, and said paragraph One is incorporated herein by reference and adopted as a part of the allegations of this count.

Paragraph Two: That the Andalusia Packing Company at all the times hereinafter mentioned, was a corporation organized and existing under the laws of the State of Alabama, with principal place of business at Andalusia, in said State, having capital stock of $133,250, divided into shares of par value of $50 each, and was engaged in the business of slaughtering live stock and of producing and dealing in meats and all kinds of products and by-products arising out of the slaughtering of live stock, causing said products to be transported when sold, from the State of Alabama, through and into other States of the United States, the territories thereof and the District of Columbia, and prior to July 24, 1917, was in direct competition with respondent and other persons, partnerships and corporations, similarly engaged.

Paragraph Three: That section 7 of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," is and provides, in part, as follows:

7 "That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the

stock or other share capital of another corporation engaged also in commerce, where the effect of such acquisition may be to substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce."

Paragraph Four: That on or about July 24, 1917, the respondent purchased all of the capital stock of said Andalusia Packing Company, issued and outstanding, and caused the same to be transferred on the books of said company, and issued to certain officers and employees of the respondent who thereby became and remained record holders of said stock but who held the same for the use and benefit of the respondent; that thereafter on or about the 24th day of July, 1917, the respondent caused its said officers and employees who held said stock to hold a stockholders' meeting of said company and at such meeting to elect as directors of said Andalusia Packing Company certain officers and employees of the respondent; that thereafter the respondent arranged to acquire the physical assets and properties of the said Andalusia Packing Company and caused its officers and employees who were the directors and stockholders thereof to accept an offer of purchase from the respondent and to pass a resolution directing a division of the surplus assets of said Andalusia Packing Company among the stockholders of said company and the sale of the remaining assets including the plant, fixtures, machinery and good-will of said company to the respondent; that said sale and transfer were authorized by the board of directors of said Andalusia Packing Company composed of officers and employees of the respondent on or about March 30, 1918; that on or about June 29, 1916, said board of directors composed as aforesaid of officers and employees of respondent resolved to liquidate said Andalusia Packing Company; that the effect of all the foregoing was to substantially lessen competition between the respondent and said Andalusia Packing Company, to restrain commerce in the section and community of and adjacent to Andalusia, Alabama, and elsewhere; and to tend to create a monopoly of the lines of commerce carried on by respondent and said Andalusia Packing Company.

Paragraph Five: That the transfer and issue of said stock of said Andalusia Packing Company to officers and employees of the respondent, the election of officers and employees of

respondent as directors and officers of the said Andalusia Packing Company and the pretended sale by such officers of the physical assets and properties of the said Andalusia Packing Company were intended by the respondent to conceal the acquisition by it of the said stock of said Andalusia Packing Company and were intended as a device to evade the provisions of Section 7 of said Act of Congress approved October 15, 1914.

IV.

And the Federal Trade Commission, having reason to believe from a preliminary investigation made by it, that Swift & Company, hereinafter referred to as respondent, has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of an
8 Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and it appearing that a proceeding by it in respect thereof would be to the interest of the public, issues this complaint stating its charges in that respect on information and belief as follows:

Paragraph One: As grounds for said complaint, said Commission relies upon the matters and things set out in paragraph One of count I and paragraph Two and Four of count III of this complaint, to the same extent as though the allegations thereof were set out at length herein, and said paragraphs are incorporated herein by reference and adopted as a part of the allegations of this count.

V.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it that Swift & Company, herein referred to as the respondent, has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and it appearing that a proceeding by it in respect thereof would be to the interest of the public, issues this complaint, stating its charges in that respect on information and belief as follows:

Paragraph One: As grounds for said complaint, said Commission relies upon the matters and things set out in

paragraph One of count I of this complaint, to the same extent as though the allegations thereof were set out at length herein, and said paragraph One is incorporated herein by reference and adopted as a part of the allegations of this count.

Paragraph Two: That England Walton & Company Inc., at the time hereinafter mentioned was a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business at Philadelphia, in the State of Pennsylvania, with capital stock of $1,250,000, and was engaged in the business of conducting tanneries and the production of various grades of leather and by-products throughout the various States of the United States, the territories thereof, and the District of Columbia, causing the same to be transported when sold, from one or more of said States, through and into various other States and territories, and prior to September 29, 1917, was in direct competition with respondent and other persons, partnerships and corporations similarly engaged. That certain branches of the business of said England Walton & Company Inc. were conducted through the instrumentalities of the following named subsidiaries: The Querin Tannery, The Carroll Oak Tannery Company, The Chilhowee Extract Company, The Junalushu Leather Company, The Unaka Tanning Company, The J. P. Houck Tanning Company, The Schloser Leather Company, and England Walton Company of Massachusetts; which subsidiaries had capital stock aggregating $545,000.

Paragraph Three: That on September 29, 1917, said respondent acquired one-half of the capital stock of said England Walton Company, Inc. and has since owned and controlled the same. That the remaining one-half of the capital stock of said England Walton & Company Inc. was ac-

9 quired by the firm of Mulford & Bryan, to whom respondent loaned $500,000 to enable said Mulford & Bryan to finance the transaction, respondent taking as security for said loan the said stock purchased by said Mulford & Bryan: and has since held said stock for voting and other purposes; that as a result of the acquisition of said stock, as aforesaid, there was vested in respondent the complete control of the business of said England Walton & Company Inc. including the business of its said subsidiaries, and competition between the respondent and said England Walton & Company, Inc. was and is completely restrained, and respondent has acquired a virtual monopoly in the interstate sale of leather in the sections and communities which, prior to September 29, 1917, were served by said England Walton & Company, Inc., and its subsidiaries.

VI.

And the Federal Trade Commission having reason to believe from a preliminary investigation made by it that Swift & Company herein referred to as respondent, has been and is violating the provisions of Section 7 of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," issues this complaint, stating its charges in that respect on information and belief as follows:

Paragraph One: As grounds for said complaint, said Commission relies upon the matters and things set out in paragraphs One of count I and paragraphs Two and Three of count V of this complaint, to the same extent as though the allegations thereof were set out at length herein, and said paragraphs One, Two and Three are incorporated herein by reference and adopted as a part of the allegations of this count.

Now, Therefore, Notice Is Hereby Given You, the said Swift & Company, that the charges of this complaint will be heard by the Federal Trade Commission at its office in the City of Washington, D. C., on the 12th day of January, A. D., 1920, at 10:30 o'clock in the forenoon of the said day, or as soon thereafter as the same may be reached, at which time and place you shall have the right to appear and show cause why an order should not be entered by the Federal Trade Commission requiring you to cease and desist from the violations of law charged in this complaint, and requiring said respondent to divest itself of the stock or share capital unlawfully held in said Moultrie Packing Company, the Andalusia Packing Company and the England Walton & Company, Inc.

And you will further take notice that within thirty (30) days after the service of this complaint, you are required to file with the Commission an answer in conformity with Rule III of the Rules of Practice before the Commission.

In Witness Whereof, the Federal Trade Commission has caused this complaint to be issued, signed by its Secretary, and its official seal to be affixed hereto, at the City of Washington, D. C., this 24th day of November, A. D. 1919.

By the Commission.

(Signed) J. P. YODER,
Secretary.

(Seal)

(Signed) CLAUDE R. PORTER,
Chief Counsel for the Commission.

10 FEDERAL TRADE COMMISSION

Docket No. 453

Section II.

Copy of Answer of Respondent,

Copy of Amendment to Answer.

11 UNITED STATES OF AMERICA

BEFORE THE FEDERAL TRADE COMMISSION

Federal Trade Commission,
vs.
Swift and Company,
Respondent.
} Docket No. 453

Complaint in the matter of the alleged violation of Section 5 of an Act of Congress, approved September 26, 1914, and Section 7 of an Act of Congress, approved October 15, 1914.

ANSWER OF RESPONDENT.

Now comes Swift and Company, a corporation, respondent herein, and answering the charges in said complaint says:

I.

Respondent admits the allegations contained in Paragraph One of Count I of the complaint, except the allegation that respondent produces and deals in leather. Respondent alleges that it is not now engaged in the production of or dealing in leather.

II.

Respondent admits that Moultrie Packing Company was a corporation organized and existing under and by virtue of the laws of the State of Georgia, with its principal place of business at Moultrie, in said State. Respondent alleges that

said Moultrie Packing Company, from and after its organization and up to November 3, 1917, was engaged in the business of slaughtering live stock, principally hogs, and of producing and dealing in meats and certain by-products arising out of the slaughtering of said live stock and that said Moultrie Packing Company caused certain of said products to be transported from the State of Georgia through and into certain other States of the United States. Respondent states that prior to June 1, 1917, said Moultrie Packing Company was in competition in a limited way with respondent and other persons, partnerships and corporations similarly engaged, and respondent alleges that said competition between said Moultrie Packing Company and respondent, and other persons, partnerships and corporations similarly engaged, continued and was not substantially lessened up to November 3, 1917.

Except as admitted above, respondent denies each and all of the allegations contained in Paragraph Two of Count I of said complaint.

III.

Respondent admits the allegation contained in Paragraph Three of said complaint.

12

IV.

Respondent states that on or about June 1, 1917, the respondent purchased nine hundred fifty-six (956) shares of the total of nine hundred sixty-six (966) shares of the capital stock of said Moultrie Packing Company issued and outstanding, and that during the period June 1, 1917, and November 3, 1917, respondent caused nine hundred fifty-one (951) of said nine hundred fifty-six (956) shares of stock to be transferred on the books of the company and reissued to certain officers and employees of respondent, who held the said stock for the use and benefit of the respondent. Respondent states that at a stockholders' meeting of said Moultrie Packing Company, held August 13, 1917, certain officers and employees of respondent were elected officers and directors of said Moultrie Packing Company. Respondent states that on November 3, 1917, the Board of Directors of said Moultrie Packing Company adopted a resolution authorizing and directing the President of the company to sell all the business

and property of the company, of every description and wheresoever situated, to this respondent at the book value of said property as shown at the close of business on November 3, 1917, and the assumption by this respondent of all the debts, contracts, obligations and liabilities of the said Moultrie Packing Company at the close of business on said date; that the said sale was thereafter effected and the same was thereafter ratified by the stockholders of said Moultrie Packing Company.

Respondent denies that the acquisition of said shares of stock of said Moultrie Packing Company by the respondent had the effect of substantially lessening competition between respondent and said Moultrie Packing Company. Respondent denies that the acquisition by respondent of the said shares of stock and all of the assets of said Moultrie Packing Company, as aforesaid, unlawfully restrained commerce in the section and community of and adjacent to Moultrie, Georgia, and elsewhere, as charged in said complaint. Respondent denies that the acquisition by respondent of said shares of stock and the assets of the said Moultrie Packing Company, as aforesaid, tended to create a monopoly in the lines of commerce carried on by the respondent and said Moultrie Packing Company.

Except as above admitted, respondent denies each and all of the allegations contained in Paragraph Four of Count I of said complaint.

V.

Respondent denies that the transfer and issue of said stock of said Moultrie Packing Company to officers and employees of this respondent, and the election of employees and officers of said respondent as directors and officers of said Moultrie Packing Company, and the sale of the assets and properties of said Moultrie Packing Company to the respondent, as hereinbefore set forth, were intended by the respondent to conceal the acquisition by it of the said stock of said Moultrie Packing Company; and respondent denies that the said transfer and said issue of said stock of said Moultrie Packing Company to officers and employees of the respondent, and the election of employees and officers of respondent as directors and officers of said Moultrie Packing Company, and the sale of the assets and properties of said Moultrie Pack-

ing Company to respondent were intended as a device to
13 evade the provisions of Section 7 of the said Act of Congress, approved October 15, 1914.

VI.

Answering Count II of said complaint, respondent denies that it has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of an Act of Congress, approved September 26, 1914, entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," as charged in Count II of said complaint, and this respondent relies upon the matters and things set out in Paragraphs II, III, IV and V of this answer to the same extent as though the allegations of said Paragraphs II, III, IV and V were here set out at length, and said Paragraphs II, III, IV and V are hereby incorporated by reference and adopted as respondent's answer to the charges contained in Count II of said complaint.

VII.

Respondent admits the allegations contained in Paragraph One of Count I of said complaint, as incorporated by reference and adopted as part of the allegations of Count III of said complaint, except the allegation that respondent produces and deals in leather. Respondent alleges that it is not now engaged in the production of or dealing in leather.

VIII.

Respondent admits that the Andalusia Packing Company was a corporation organized and existing under the laws of the State of Alabama with its principal place of business in Andalusia in said State, having a capital stock issued and outstanding of the value of One Hundred Thirty-three Thousand Two Hundred and Fifty Dollars ($133,250.00), divided into shares of the par value of Fifty Dollars ($50.00) each. Respondent alleges that said Andalusia Packing Company from and after its organization and up to March 30, 1918, was engaged in the business of slaughtering live stock, principally hogs, and of producing and dealing in meats and certain by-products arising out of the slaughtering of said live

stock and that said Andalusia Packing Company caused certain of said products to be transported from the State of Alabama through and into certain other states of the United States. Respondent states that prior to July 24, 1917, said Andalusia Packing Company was in competition in a limited way with respondent and other persons, partnerships and corporations similarly engaged, and respondent alleges that said competition between said Andalusia Packing Company and respondent, and other persons, partnerships and corporations similarly engaged, continued and was not substantially lessened up to March 30, 1918.

Except as admitted above, respondent denies each and all of the allegations contained in Paragraph Two of Count III of said complaint.

IX.

Respondent admits the allegation contained in Paragraph Three of Count III of said complaint.

14 X.

Respondent states that on or about July 24, 1917, the respendent purchased all of the outstanding capital stock of said Andalusia Packing Company and caused said stock, with the exception of One Hundred (100) shares to be transferred on the books of the company to employee of respondent, and that from and after the purchase of said outstanding capital stock of said Andalusia Packing Company and until its dissolution, the said stock was held for the use and benefit of respondent. Respondent states that on March 30, 1918, the Board of Directors of said Andalusia Packing Company, after setting aside the sum of Seventeen Thousand Dollars ($17,000.00) as a reserve fund for payment of federal taxes, declared a dvidend of Ninety-seven Thousand Two Hundrd Seventy-six Dollars and Fourteen Cents ($97,276.14), payable out of surplus of the Andalusia Packing Company to the stockholders of record at the close of business March 30, 1918, and at the same meeting, the Board of Directors of the Andalusia Packing Company adopted a resolution accepting the offer of this respondent to purchase all of the property and business of the Andalusia Packing Company at the book value thereof at the close of business on Saturday, March 30, 1918, for cash and the assumption

of the debts, liabilities and obligations of the Andalusia Packing Company. Respondent states that thereafter the purchase by respondent of the business and physical property, including the plant, fixtures and machinery, of the Andalusia Packing Company was consummated in accordance with said resolution and that thereafter the Andalusia Packing Company was liquidated and dissolved. Respondent denies that the acquisition by it of the outstanding capital stock of the Andalusia Packing Company as aforesaid had the effect of substantially lessening competition between the respondent and said Andalusia Packing Company. Respondent denies that the acquisition by respondent of said shares of stock and the business and physical property, including the plant, fixtures and machinery of the Andalusia Packing Company unlawfully restrained commerce in the section and community of and adjacent to Andalusia, Alabama, and elsewhere, as charged in the complaint. Respondent denies that the acquisition by respondent of said shares of stock and of the business and physical property, including the plant, fixtures and machinery of the Andalusia Packing Company tended to create a monopoly in the lines of commerce carried on by respondent and said Andalusia Packing Company.

Except as above admitted, respondent denies each and all of the allegations contained in Paragraph Four of Count III of said complaint.

XII.

Respondent denies that the transfer and issue of said stock of the Andalusia Packing Company to employes of respondent, and the election of employees of saind respondent as directors and officers of said Andalusia Packing Company, and the sale of the assets and properties of said Andalusia Packing Company to the respondent, as hereinbefore set forth, were intended by the respondent to conceal the acquisition by it of the said stock of said Andalusia Packing Company, and respondent denies that the said transfer of said issue of said stock of said Andalusia Packing Company to employes to the respondent, and the election of employes of respondent as directors and officers of said Andalusia Packing Company, and the sale of the assets and properties of said Andalusia Packing Company to respondent were intended as a device to evade the provisions of Section 7 of the said Act of Congress, approved October 15, 1914.

XIII.

Answering Count IV of said complaint, respondent denies that it has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of an Act of Congress, approved September 26, 1914, entitled, "An Act to Create a Federal Trade Commission, to Define its Powers and Duties, and for Other purposes", as charged in Count IV of said complaint, and this respondent relies upon the matters and things set out in Paragraphs VII, VIII, IX, X, XI and XII of this answer to the same extent as though the allegations contained therein were here set out at length and said Paragraph VII, VIII, IX, X, XI and XII are hereby incorporated by reference and adopted as respondents answer to the charges contained in Count IV of said complaint.

XIV.

Answering Count V of said complaint, respondent admits the allegations contained in Paragraph One of Count I of said complaint as incorporated by reference and adopted as part of the allegations of Count V, except the allegation that respondent produces and deals in leather. Respondent alleges that it is not now engaged in the production of or dealing leather.

XV.

Respondent admits that England, Walton & Company, Inc., was, on and prior to September 29, 1917, a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business at Philadelphia, in the State of Pennsylvania, with a capital stock of One Million Two Hundred and Fifty Thousand Dollars ($1,250,000.00) and was engaged in the business of conducting tanneries and the production of various grades of leather and by-products, and that said England, Walton & Company, Inc., caused said products to be transported, when sold, from one or more of the various States of the United States through and into certain other States of the United States, and on and prior to the date last aforesaid was in direct competition with respondent and other persons, partnerships and cor-

porations similarly engaged; that certain branches of the business of said England, Walton & Company, Inc., were conducted through the instrumentalities of the following named subsidiaries:

Quirin Tanning Company
Carroll Oak Tannery Company
Chilhowee Extract Company
Junaluska Leather Company
Unaka Tanning Company
J. P. Houck Tanning Company
Schlosser Leather Company

and England, Walton Co., of Massachusetts, which subsidiaries had a capital stock aggregating Five Hundred Forty-five Thousand Dollars ($545,000.00).

16 XVI.

Respondent admits that on or about September 29, 1917, it acquired one half of the capital stock of said England, Walton & Company, Inc.; that the remaining one-half of the capital stock of said England, Walton & Company, Inc., was acquired by S. K. Mulford and M. R. Bryan individually, to whom respondent loaned Five Hundred Thousand Dollars ($500,000.00), to enable said Mulford and Bryan to finance the transaction, respondent taking as security for said loan the said stock purchased by said Mulford and Bryan, but respondent denies that it held said stock of Mulford and Bryan at any time for voting and other purposes, except as aforesaid, and denies that it now owns and or controls the one-half of the capital stock of said England, Walton & Company, Inc., acquired by respondent on or about September 29, 1917, having in September, 1919, sold all of said capital stock and its interest therein of every nature, or that as a result of the acquisition of the said stock, as aforesaid, there was vested in respondent the complete control of the business of said England, Walton & Company, Inc., including the business of its said subsidiaries, or that competition between the respondent and said England, Walton & Company, Inc., was and is completely restrained, or that respondent has acquired a virtual monopoly in the interstate sale of leather in the sections and communities which, prior to September 29, 1917, were served by said England, Walton & Company, Inc., and its subsidiaries.

Except as admitted above, respondent denies each and all of the allegations contained in Paragraph Three of Count V of said complaint.

XVII.

Respondent expressly alleges that the purchase of one-half of the capital stock of said England, Walton & Company, Inc., by respondent was lawful, and respondent denies that the effect of such acquisition was to vest in respondent the complete control of the business of said England, Walton & Company, Inc., including the business of its said subsidiaries, or to restrain competition between the respondent and said England, Walton & Company, Inc., or any of its subsidiaries, or that respondent has acquired a virtual monopoly in the interstate sale of leather in the sections and communities which, prior to September 29, 1917, were served by said England, Walton & Company, Inc., and its subsidiaries.

Respondent expressly alleges that it is now engaged in the business of producing and dealing in leather; that it does not hold, own or control, directly or indirectly, as security of otherwise, the capital stock of said England, Walton & Company, Inc., or of any of its said subsidiaries, or of its or their successors or assigns, having sold all interest in said capital stock in September, 1919.

XVIII.

Answering Count VI of said complaint, respondent denies that it has been and is violating the provisions of Section 7 of an Act of Congress, approved October 15, 1914, entitled, "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes," as
17 charged in Count VI of said complaint, and for answer to said charges respondent relies upon the matters and things set out in Paragraphs XIV, XV, XVI, XVII to the same extent as though the allegations of said Paragraphs XIV, XV, XVI and XVII were here set out at length, and said Paragraphs XIV, XV, XVI and XVII are here incorporated by reference and adopted as respondent's answer to the charges contained in said Count VI of said complaint.

XIX.

Wherefore, This respondent having fully answered the charges in said complaint, prays that the same be dismissed.

SWIFT & COMPANY
(Signed) By L. F. SWIFT,
President

Dated this 23d day of
December, 1919.
(Signed) ALBERT H. & HENRY VEEDER
76 West Monroe Street, Chicago, Illinois
Attorneys for Respondent.

18 UNITED STATES OF AMERICA Amendm answe

BEFORE THE FEDERAL TRADE COMMISSION

Docket No. 453.

Federal Trade Commission

v.

Swift and Company
Respondent.

AMENDMENT TO ANSWER

In the matter of the alleged violation of:

Section 5 of the Act of Congress,
approved September 26, 1914, and
Section 7 of an Act of Congress,
approved October 15, 1914.

---

19 UNITED STATES OF AMERICA

BEFORE THE FEDERAL TRADE COMMISSION

Federal Trade Commission
vs.
Swift and Company,
Respondent
} Docket No. 453

Complaint in the matter of the alleged violation of Section 5 of an Act of Congress, approved September 26, 1914, and Section 7 of an Act of Congress, approved October 15, 1914.

AMENDMENT TO ANSWER OF RESPONDENT.

Now comes Swift and Company, a corporation, respondent herein and amends its Answer, heretofore filed in, as follows:

Strike out he word "now" in first line of the second paragraph of Subdivision XVII of said Answer and substitute therefor, the word "not"; so that said second paragraph of said Subdivision XVII of said Answer, when amended, will read as follows:

Respondent expressly alleges that it is not now engaged in the business of producing and dealing in leather; that it does not hold, own or control, directly or indirectly, as security or otherwise, the capital stock of said England, Walton & Company, Inc., or of any of its said subsidiaries, or of its or their successors or assigns, having sold all interest in said capital stock in September, 1919.

SWIFT AND COMPANY.
By (Signed) L. F. SWIFT,
President.

Dated this 23d day of
January, 1920.
(Signed) ALBERT H. & HENRY VEEDER
76 West Monroe Street, Chicago, Illinois.
Attorneys for Respondent.

20 FEDERAL TRADE COMMISSION Dated F 1921.

Docket No. 453

Section III

Copy of Order Appointing Examiner.

Copy of Order fixing Time and Place for Hearing.

Copy of Notice to Resume Hearing.

21 UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION. ss:

Federal Trade Commission
vs.
Swift & Company
} Docket 453

The above entitled proceeding being at issue and ready for the taking of testimony, it is hereby

Ordered, that C. T. Sadler, an Examiner of this Commission, be and he hereby is appointed and designated to receive and hear testimony and to take evidence in said proceeding.

By Order of the Commission.

(Signed) J. P. YODER
J. P. YODER,
Secretary.

(Seal)

Dated February 1, 1921.

22 UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION. ss:

At a regular session of the Federal Trade Commission held at its office in the city of Washington, D. C., on the 14th day of March, A. D., 1923.

Present:

Victor Murdock, Chairman,
John F. Nugent,
Huston Thompson,
Nelson B. Gaskill,
Vernon W. Van Fleet.

Federal Trade Commission
vs.
Swift & Company
} Docket 453

Order (Nunc Pro Tunc) Fixing time and place for hearing of proof.

Whereas, on February 1, 1921 the above entitled proceeding being at issue and ready for taking testimony, examiner C. T. Sadler was appointed and designated by the Commission to receive and hear testimony and take evidence in said proceeding; and

Whereas, the hearing of the proof of the charges of the complaint in the above entitled proceeding began before examiner C. T. Sadler on February 9, 1921 at 10 o'clock of the forenoon of that day in the office of the Commission in the city of Chicago, state of Illinois, at which hearing said respondent was represented by counsel; and

Whereas, no time and place was set by the Commission for the hearing of the proof of the charges of the complaint in the above entitled proceeding;

Now, Therefore It Is Ordered, nunc pro tunc, that the hearing of the proof of the charges of the complaint in
23 the above entitled proceeding begin before examiner C. T. Sadler on the 9th day of February at 10 o'clock in the forenoon in the office of the Commission in the city of Chicago, state of Illinois.

By order of the Commission.

(Signed) OTIS B. JOHNSON,
OTIS B. JOHNSON
Secretary.

(Seal)

24 UNITED STATES OF AMERICA Dated M 1921.

BEFORE FEDERAL TRADE COMMISSION. ss:

Federal Trade Commission
vs.
Swift & Company
} Docket 453

NOTICE TO RESUME HEARINGS.

To:

A. H. and Henry Veeder, Esqs.,
76 West Monroe St., Chicago, Ill.

James M. Sheean, Esq.,
105 South LaSalle St., Chicago, Ill.

Frank L. Horton, Esq.,
c/o Swift & Co., Chicago, Ill.

Gentlemen:

You will please take notice that on June 3, 1921, at the hour of 10:00 o'clock A. M., Chicago city time, before the undersigned, Clarence T. Sadler, an Examiner heretofore appointed by the Federal Trade Commission to receive evidence in the above proceeding, in the hearing room of the Federal Trade Commission, No. 1100 Browning Building, 14 West Washington Street, Chicago, Illinois, the taking of testimony in support of the complaint in the above entitled proceeding will be resumed, and continued from day to day at Chicago or such other places as may be designated by the Examiner until completed.

(Signed) CLARENCE T. SADLER
Examiner

May 23, 1921.

Received a copy of the foregoing notice this 25th day of May 1921.

(Signed) A H & HENRY VEEDER
JAMES M. SHEEAN
F. L. HORTON
Attorney for Respondent.

ted 1921. 25

UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION. ss:

Federal Trade Commission
vs.
Swift & Company
} Docket 453

NOTICE

To:

A. H. and Henry Veeder, Esqs.,
76 West Monroe St., Chicago, Ill.

James M. Sheean, Esq.,
105 South LaSalle St., Chicago, Ill.

Frank L. Horton, Esq.,
c/o Swift & Company, Chicago, Ill.

Gentlemen:

You will please take notice that immediately upon the completion of the taking of testimony in chief for the Commission in the above entitled proceeding, I will move the Examiner to proceed at once with the taking of evidence for the respondent.

Respectfully,
(Signed) ADRIEN F. BUSICK,
ADRIEN F. BUSICK,
Acting Chief Counsel for Federal Trade Commission

May 23, 1921.

Received a copy of the foregoing notice this 25th day of May 1921.

(Signed) A H & HENRY VEEDER
JAMES M. SHEEAN
F. L. HORTON
Attorney for Respondent

26 FEDERAL TRADE COMMISSION

Docket No. 453

Section IV.

Copy of Motion to Separate the Several Causes in Docket 453.

Copy of Motion to Dismiss.

(These two motions were presented at the hearing at Chicago on February 9, 1921, and denied by the Examiner.

The transcript of testimony is bound in two separate volumes.

27 MOTION TO SEPARATE THE SEVERAL CAUSES IN DOCKET NO. 453.

Federal Trade Commission
vs.
Swift & Company
Respondent
} Docket 453

Now Comes Swift & Company, respondent herein by its attorneys, and moves to separate the several causes contained in the complaint of the Federal Trade Commission in Docket No. 453, and further moves that each of the three causes in said complaint be heard separately.

(Signed) A. H. & HENRY VEEDER
" JAMES M. SHEEAN, FRANK L. HORTON
Attorneys for Respondent

28 MOTION TO DISMISS

Federal Trade Commission
vs.
Swift & Company
Respondent
} Docket 453

Now comes Swift & Company, respondent herein, by its attorneys, and moves that the complaints and proceedings in Docket No. 453 be dismissed for the following reasons:

1. That the Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes" is unconstitutional and void under, and in conflict with the terms and provisions of Section 1, Article III, of the constitution of the United States, in that the said Act attempts to grant and confer judicial power to a tribunal other than a duly constituted court ordained and established by the Congress under the constitution and laws of the United States.

2. On the ground that the Act of Congress approved October 15, 1914, entitled "An Act to Supplement Existing Laws against Unlawful Restraints and Monopolies and for Other Purposes" is unconstitutional under, and in conflict with the terms of the fifth amendment to the constitution of the United States for the reason that the said Act is in these proceedings an attempt to deprive the respondent its liberty
29 its right to contract, and its property without due process of law.

3. That the several complaints on their respective faces do not state a cause of action.

4. The Federal Trade Commission is without power to act in, or hear, or determine these several proceedings and causes.

5. That the Act of Congress approved October 15, 1914, entitled "An Act to Supplement Existing Laws against Unlawful Restraints and Monopolies and for Other Purposes" and each and every section thereof, and particularly Section 7 of said Act as unconstitutional and void in that they are contrary to the fifth amendment of the constitution of the United States, and Section 7 of said Act denies to any corporation, and this respondent, the right to acquire, possess, or dispose of property and deprives this respondent of its liberty and property without due process of law.

6. That the complaint does not state facts sufficient to

constitute a violation of Section 7 of an Act of Congress approved October 15, 1914, entitled "An Act to Supplement Existing Laws against Unlawful Restraints and Monopolies and for other Purposes", or a violation of any other section of Act or Acts of Congress.

7. That the complaint herein does not state facts sufficient to constitute a violation of Section 5 of an Act of Congress approved September 26, 1914, entitled "An Act to Create
30 a Federal Trade Commission, to define its powers and duties, and for other purposes.

8. That the acts, facts, and things complained of each and all of them are "intrastate" and not subject to regulation by Congress or the Federal Trade Commission.

(Signed) A. H. AND HENRY VEEDER
" JAMES M. SHEEAN AND FRANK L. HORTON
Attorneys for Respondent

31 FEDERAL TRADE COMMISSION

Docket No. 453

Section V.

Copy of Motion to Exclude Part of Complaint,

Copy of Order Excluding Portion of Complaint,

Copy of Order Assigning New Docket Number to Excluded Portion of Complaint.

to ex- part of laint.

32 UNITED STATES OF AMERICA

BEFORE THE FEDERAL TRADE COMMISSION.

Federal Trade Commission
vs.
Swift and Company,
Respondent.
} Docket No. 453.

Complaint in the matter of the alleged violation of Section 5 of an Act of Congress, approved September 26, 1914, and Section 7 of an Act of Congress, approved October 15, 1914.

MOTION.

Now comes the Respondent, Swift and Company, a Corporation, and moves that the complaint relating to England, Walton & Company, Inc., be excluded from this docket.

(Signed) A H & HENRY VEEDER
" JAS. M. SHEEAN and
F. L. HORTON
Attorneys for Respondent.

xclud- ortion nplaint.

33 UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION: ss.

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 18th day of April, A. D. 1921.

Present:

Huston Thompson, Chairman,
Nelson B. Gaskill,
Jno. Garland Pollard,
Victor Murdock,
John F. Nugent,
Commissioners.

Federal Trade Commission
vs.
Swift & Company.
} Docket No. 453.

Order Excluding Portion of Complaint, relating to England Walton & Company, Inc., from Docket No. 453.

The respondent having duly appeared by its attorneys and

by motion filed herein on March 30, 1921, moved that the portion of the complaint relating to England Walton & Company, Inc., be excluded from this Docket, and the Commission being fully advised in the premises and having given due consideration thereto;

Now, Therefore, It Is Hereby Ordered, that said motion of respondent be and the same is hereby granted, in that Counts V and VI of said complaint alleging, among other things, the acquisition of capital stock of England Walton & Company, Inc., be excluded from this Docket; and that this order shall be without prejudice to the right of the Commission to make such further orders in the premises as to the Commission may seem proper.

By the Commission.

(Signed) J. P. YODER
J. P. YODER,
Secretary.

(Seal)

34 UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION: ss.

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 20th day of May, A. D., 1921.

Present:

Huston Thompson, Chairman,
Nelson B. Gaskill,
Jno. Garland Pollard,
Victor Murdock,
John F. Nugent,
Commissioners.

Federal Trade Commission
vs.
Swift & Company
} Docket No. 453
Docket No. 775

Order Assigning New Docket Number to portion of complaint excluded from Docket No. 453.

The Commission having duly made an order on the 18th day of April, 1921, excluding from Docket No. 453 a portion of the complaint thereof relating to England, Walton & Com-

pany, Inc., appearing therein as counts V and VI of said complaint,

Now, Therefore, It Is Hereby Ordered, that said portion of the complaint known as counts V and VI relating to the acquisition of capital stock of England, Walton & Company, Inc., shall be and become Docket No. 775 and hereafter be so known and designated.

By the Commission.

(Signed) J. P. YODER
J. P. YODER,
Secretary.

(Seal)

for
ntion
Moul-
hamber
merce.

35 FEDERAL TRADE COMMISSION

Docket No. 453

Section VI.

Copy of Petition for Intervention filed by Moultrie Chamber of Commerce.

Copy of Order denying Petition to Intervene.

36 Federal Trade Commission
vs.
Swift & Company.
} Docket No. 453

Now comes the Moultrie Chamber of Commerce of Moultrie, Georgia, a corporation organized and existing under the laws of the State of Georgia, with its offices and principal place of business in Moultrie, Colquitt County, Georgia, by Hill & Gibson, its attorneys at law, and prays that it be allowed to intervene in the above entitled cause, and, for cause of intervention, shows the following:—

—1—

The Moultrie Chamber of Commerce of Moultrie, Georgia, is a civic body politic, devoted to the agricultural and commercial welfare of the County of Colquitt, the City of Moultrie and the section of Southwest Georgia. It was organized to promote the agricultural, the commercial and the industrial development of said county and section, not only insofar as this this development concerns the individual businesses of its members, but also as it affects the interests of all citi-

zens throughout the territory in which it operates. For a period of years, its membership has comprised practically all of the business and professional men, industrial and commercial concerns, and a large majority of the leading farmers of said county. Practically all of its operating capital has been expended in the promotion of an agricultural
37 development program, including better markets for farm products, including live stock, land clearing, consolidated rural schools, improved public highways and other fundamental problems.

—2—

Petitioner is informed that Swift & Company is charged with a violation of Section 5 of an act entitled, "An act to create a Federal Trade Commission, to define its powers and duties and for other purposes," approved September 26, 1914; and petitioner is also informed that Swift & Company is charged with a violation of Section 7 of what is commonly known as the "Clayton Act." Petitioner has evidence bearing upon the issues raised by the complaint and answer in the above entitled cause, and petitioner fears that such evidence will not be presented unless this intervention is allowed, and that its interests and the interests of those it represents, to wit the City of Moultrie, the Couny of Colquitt and Southwest Georgia, will be seriously, if not irreparably damaged, if your petitioner is not allowed a full and complete hearing.

—3—

Petitioner shows that the Moultrie Packing Company was organized, under the auspices of, and promoted by, the Moultrie Chamber of Commerce, in the year 1914, and that its establishment was a community enterprise; that its stock holders were composed of farmers, merchants and business men generally, residing in the said County of Colquitt
38 and the City of Moultrie; that its creation was inspired by a motive, on the part of its stockholders, to encourage the raising of live stock in the community, and thereby provide a market to the farmers of Southwest Georgia, of farm products other than cotton, then threatened with disaster by reason of the approaching boll weevil invasion; that its stockholders realized that when the farmers of this section had been encouraged to raise live stock to the extent of supply-

ing a larger packing plant at Moultrie, that they could then seek to interest one of the large national packers, with a view to having one of them acquire said plant and thus afford this section larger and better facilities for the marketing of live stock. The stock holders of the Moultrie Packing Company, at the time they engaged in the meat packing business, did not do so with the idea of remaining in said business permanently, but chiefly with the idea of encouraging the raising of live stock to the extent that, ultimately, one of the large packers might be induced to take over said plant.

—4—

Petitioner shows, therefore, that in the year 1917, after the stock holders of the Moultrie Packing Company had offered its plant for sale to various packers, it finally succeeded in inducing Swift & Company to purchase said plant, to take the same over and continue its operation. Petitioner shows that it necessarily requires a large outlay of money to operate a packing plant, even of the size which was being operated by the Moultrie Packing Company, and its stock holders had, at the time of the sale of said plant to Swift & Com-
39 pany, realized that, on account of the rapid expansion of the business, which was far greater than they had anticipated, it could not take care of the constantly increasing production of live stock in Southwest Georgia, Southern Alabama and the northern portion of Florida, without a great burden to many of its stock holders, who were compelled, from time to time, to personally endorse the obligations of the company.

—5—

Petitioner further shows that in the sale of said plant to Swift & Company, that the stock holders of the said Moultrie Packing Company were willing and anxious to sell the same, and that Swift & Company used no unfair or unjust means in purchasing the same, but that said sale was, in every way, free from any scheme or device, on the part of Swift & Company, to induce the stock holders of said Moultrie Packing Company to sell the same; but, on the other hand, the stock holders of said company were, perhaps, more willing to sell than Swift & Company was to buy, and that the stock holders of said company, in selling their plant to Swift & Company, did so realizing that in so doing the Southeastern States

would be benefitted in said plant being placed in the hands of a concern of greater financial ability, which would increase the capacity and distribution facilities of said plant, encourage the raising of live stock to a greater extent, and thereby insure its permanency, as well as that of the packing industry in the south.

—6—

40 Petitioner shows that since the purchase of said plant by Swift & Company, that said plant has been increased in size; that all of its facilities for the handling of live stock have been increased; that it has done more to encourage the raising of live stock throughout the states of Georgia, Alabama, and Florida than ever could have been done by the Moultrie Packing Company; all of which has not only conferred a blessing upon the agricultural interests of said sections in furnishing a market for live stock, and thereby enabling them to survive, notwithstanding the presence of the boll weevil, but by said acts on the part of said company, every phase of the business and commercial life of said sections has been wonderfully benefitted.

—7—

Your petitioner further shows that the acquisition of the Moultrie Packing Company's plant by Swift & Company did not, in any manner, have the effect of restraining commerce in the section of the country in which said Swift & Company continued to do business thereafter, and did, in no wise, tend to create a monopoly, nor did it in any wise tend to lessen competition, either in the purchase of live stock or the sale of its finished products. On the other hand, petitioner shows that the average price received by farmers and stock raisers has been higher since the purchase of said plant by Swift & Company than it had been prior thereto; and that the price of the finished products has, conditions considered, been equally as low, if not lower.

—8—

41 Your petitioner shows that the largely increased scale of operations of the packing industry at Moultrie, by Swift & Company, since its acquisition of the plant of Moultrie Packing Company, has not only encouraged and in-

creased the diversification of agriculture by the introduction of live stock, as hereinbefore set out, but as a natural result it has also greatly stimulated and augmented the commercial and industrial development of Moultrie, Colquitt County and the surrounding territory. Numerous, already established, commercial concerns and industries have extended their facilities to take care of a larger volume of business, while many new enterprises have sprung into existence, whose growth and success are involved in, and dependent upon, the assurance offered by a continuance of the present scale, or an even larger basis, of operations in the packing industry by Swift & Company. This has necessitated a large investment in commercial properties, as well as residence facilities and public improvements, and the welfare and prosperity of no inconsiderable body of laboring people are vitally interested in, and will be disastrously affected by, a judgment of your Honorable Commission adverse to the respondent and enjoining its future operation of the packing plant at Moultrie.

—9—

Petitioner, in behalf of all the interests it represents,—the citizens, the industries, in fact the agricultural and commercial life of this entire section of Georgia,—is vitally concerned in any order which the Honorable Federal Trade Commission may make. Petitioner desires that all facts,
42 necessary and material to the interests involved, be presented in evidence before your Honorable Commission. Petitioner fears that such facts and evidence will not be presented unless its prayer be granted, and its intervention allowed.

Wherefore, petitioner prays that this, its petition for intervention, be considered, and that the same be allowed, ordered filed and be made a part of the record, and that petitioner be allowed to appear in said proceedings, by its officers, agents or counsel.

Respectfully submitted,
(Signed) Hill & Gibson
Petitioner's Attorneys.

Moultrie Chamber of Commerce
By (Signed) F R Pidcock
President.
(Signed) Chas. B. Caldwell,
Sec.

State of Georgia
County of Colquitt } ss
City of Moultrie

Before the undersigned officers, authorized under the laws of the State of Georgia to administer oaths, personally appeared F. R. Pidcock and Chas B. Caldwell, who on oath depose and say, and each deposes and says, that they are the president and secretary, respectively, of the Moultrie Chamber of Commerce, the petitioner in the above and foregoing petition for intervention; that they are the officers in active charge of the business of said Moultrie Chamber of Commerce, and that the facts contained in said petition are true.

(Signed) F R Pidcock
" Chas B. Caldwell

Sworn to and subscribed before me, this, the ninth day of July, 1921

(Signed) Meda Manning
(Seal) *N. P. State at Large, Ga.*

43 UNITED STATES OF AMERICA

Order of 20, 1921 denying tion to vene

Before Federal Trade Commission:

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 20th day of July, A. D., 1921.

Present:

Houston Thompson, Chairman,
Nelson B. Gaskill,
Jno. Garland Pollard,
Victor Murdock,
Nelson B. Gaskill,
Commissioners.

Federal Trade Commission
vs.
Swift & Company. } Docket No. 453.

This proceeding coming on to be heard on the application of the Moultrie Chamber of Commerce, of Moultrie, Georgia, praying that it be allowed to intervene in the above entitled

case for the purpose of introducing evidence at hearings before an Examiner which are now being conducted at Moultrie, Georgia; and the Commission having duly considered said application and being now fully advised in the premises

It Is Ordered, that said application for leave to intervene be and the same is hereby denied.

By the Commission:

(Signed) J. P. YODER
J. P. YODER,
Secretary.

(Seal)

for
ntion
alusia
er of
rce.

44 FEDERAL TRADE COMMISSION

Docket No. 453

Section VII.

Copy of Petition for Intervention, filed by Andalusia Chamber of Commerce,

Copy of Order Denying Petition for Intervention.

Copy of Exceptions to Order Denying Petition.

45 Federal Trade Commission
vs.
Swift & Company
} Docket No. 453.

Now comes the Andalusa Chamber of Commerce, of Andalusia, Alabama, an Association organized and existing in the State of Alabama, with its principal office and place of business in Andalusia, Covington County, Alabama, and A. C. Darling and T. E. Henderson by J. Morgan Prestwood and W. H. Albritton, their attorneys at law, and pray to be allowed to intervene and appear by Counsel, or in person, in the above entitled cause, and, for cause of intervention, show the following:—

—1—

The Andalusia Chamber of Commerce, of Andalusia, Alabama, is a civic association, composed of a large membership consisting of to-wit: Three hundred or more merchants, farmers and business men, residents of the City of Andalusia, and of Covington County, Southeast Alabama, and adjoining

Territory, devoted to the agricultural and commercial welfare of the County of Covington, the City of Andalusia, and Southeast Alabama and West Florida. It was organized to promote the agricultural, commercial and industrial development of said County and Section, not only in-so-far as this development concerns the individual businesses of its members, but also as it affects the interests of all the citizens throughout the Territory in which it operates. For a period of years, its membership has comprised practically all the
46 business and professional men, industrial and commercial concerns, and a large number of the leading farmers of said County and Section. All of its operating Capital has been expended in the promotion of agricultural and civic development programs, including, to a larger extent, better markets for farm products, live stock, land development, school development, diversified farming, increased productiveness of natural resources, improved public highways, and other problems affecting the financial, education and civic development of the Section and Territory hereinbefore named.

—2—

Petitioners are informed that Swift & Company is charged with a violation of Section 5 of an Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914, and Petitioners are also informed that Swift & Company is charged with a violation of Section 7 of what is commonly known as the "Clayton Act." Petitioners have evidence bearing upon the issue raised by the Complaint and Answer in the above entitled cause, which evidence is, in the opinion of Petitioners, vital to the continued and successful carrying out of the purposes hereinbefore outlined of The Andalusia Chamber of Commerce, and to the continued business development of the Territory hereinbefore described, and Petitioners fear that such evidence will not be properly presented, or will not be presented in such a way as to properly outline and show the interests of said Chamber of Commerce and the General Public, which said Chamber represents in the Territory above named, unless this intervention is allowed, and that the interests of said Chamber of Commerce and the interests of those
47 it represents, viz:—the City of Andalusia, the County of Covington, Southeast Alabama and West Florida, and your other Petitioners, will be seriously, if not irrepar-

ably injured and damaged, if your Petitioners are not allowed a full and complete hearing.

—3—

Petitioners further show that the Andalusia Packing Company was organized under the auspices of, and promoted by, a large number of the Membership of the Andalusia Chamber of Commerce, together with a large number of other citizens of the Territory above named, in the year 1914, and that its establishment was a very large Community enterprise, created and established for the benefit of the Territory hereinbefore named; that the stockholders were composed of farmers, merchants and business men generally, residing in the Counties of Pike, Crenshaw, Geneva, Covington, and other Counties in Southeast Alabama, and in West Florida, and the City of Andalusia; that its creation and organization was inspired by a motive on the part of the stockholders to encourage the raising of live stock in the Territory above named, and thereby provide a market to the farmers of Southeast Alabama and West Florida for farm products other than cotton, the raising of which was at that time made practically impossible by reason of the recent invasion of the boll weevil; that the promotion of this enterprise was at that time necessary to prevent bankruptcy in the Section above named; that its stockholders realized that unless a new industry of this kind could be developed in a large way, the Territory above named would be practically ruined in a financial way for the
48 reason that the raising of cotton, the former chief product of said Territory, had been rendered practically impossible by the recent destructive appearance of the boll weevil. The stockholders of said Andalusia Packing Company, at the time they became engaged in the meat packing business did not do so of choice, but of necessity, and entirely with the idea of encouraging the raising of live stock to the extent that it might be made a paying industry to take the place of an industry which had been ruined.

—4—

Petitioners further show that the stockholders of said Andalusia Packing Company consisted very largely of farmers who were owners of small farms and who were able only to subscribe and pay for a small amount of stock and who were

not able to assist in financing the business of the Company, and that, on account of the very large amount of operating Capital necessary to carry on the business of said Company and continue its operation, credit for money required for this purpose could not be obtained by the Company, but it was necessary from the beginning of operations for a very limited number of the stockholders, who held, as a matter of fact, very small precentages of stock in the Company, to secure funds for said operation by the personal endorsement of the obligations of said Company, which was extremely burdensome and entirely out of proportion to their stockholdings in the Company, and was done only for the purpose of keeping the plant of the Company going temporarily until some permanent plan of operation and development could be worked out; that said Company was not organized, nor was it
49 contemplated at the time of its organization, as a competitive business enterprise in the Meat Packing Industry, the sole purpose of its organization being one of development of a new industry for the reasons above set forth; none of the stockholders of said Company, at the time of its organization, nor thereafter until the sale of its stock, knew anything about the Meat Packing Industry, nor any of its branches, and very soon after its organization, realized that on account of their lack of knowledge of the Industry and the rapid expansion of business, which was far greater than they anticipated, it could not take care of, and it was impossible for it to take care of, the constantly increasing production of live stock in Southeast Alabama and West Florida, the entire burden of continuing operation being placed on a very few stockholders holding small amounts of stock who were required to personally endorse the obligations of the Company in order to keep it going.

—5—

Petitioners further show that the conditions hereinbefore outlined facing said Company and its stockholders, and after several efforts to dispose of the properties of the Company, it was sold to Swift & Company, the entire physical and other assets of the Company being sold and turned over to Swift & Company, the transfer of the stock of the Company by its stockholders being merely for the purpose of what they thought at the time would more expeditiously and quickly consummate the sale, and that in the sale of said plant to

Swift & Company the stockholders of said Andalusia Packing Company were willing and anxious to sell, and that Swift & Company used no unfair or unjust means in purchasing
50 the same, but that said sale was made, in every way, free from any scheme or device on the part of Swift & Company to induce the stockholders of said Andalusia Packing Company to sell the same, but on the other hand, in truth and in fact, the stockholders were more willing to sell than Swift & Company was to buy, and that the stockholders of said Company, in selling their plant to Swift & Company did so realizing and believing, which belief has been confirmed by actual experience, that in so doing the Southeastern States and the Territory hereinbefore named would be benefitted in said plant being placed in the hands of a concern of greater financial ability, which would increase the capacity and distribution facilities of said plant, encourage to a larger extent the raising of live stock, and thereby insure permanency, as well as that of the Packing industry of the South.

—6—

Petitioners further show that since the purchase of said plant by Swift & Company, said plant has been largely increased in size; that all of its facilities for the handling of live stock have been increased; that it has done more to encourage the raising of live stock throughout the States of Alabama, Florida and Groegia than could ever have been done by the Andalusia Packing Company—all of which has not only conferred a blessing upon the agricultural interests of said Sections in furnishing a market for live stock, and thereby enabling them to survive, notwithstanding the presence of the boll weevil, but by said acts on the part of said Company, every phase of the business and commercial life of said Sections has been wonderfully benefitted.

51 —7—

Your Petitioners further show that the acquisition of the Andalusia Packing Company's plant by Swift & Company did not, in any manner, have the effect of restraining commerce in the Section of the Country in which said Swift & Company continued to do business thereafter, and did, in no-wise, tend to create a monopoly, nor did it in anywise tend to lessen competition, either in the purchase of live stock or in the

sale of its finished products—On the other hand, petitioner shows that the average price received by farmers and stock raisers has been higher since the purchase of said plant by Swift & Company than it had been prior thereto, and that the price of the finished products has, conditions considered, been equally low, if not lower.

—8—

Your Petitioners further show that the largely increased scale of operations of the packing industry at Andalusia, by Swift & Company, since its acquisition of the plant of Andalusia Packing Company has not only encouraged and increased the diversification of agriculture by the introduction of live stock, as hereinbefore set forth, but as a material result it has also greatly stimulated and augmented the commercial and industrial development of Andalusia, Covington County, and the surrounding territory. Numerous already established commercial concerns and industries have extended their facilities to take care of a larger volume of business, while many new enterprises have sprung into existence, whose growth and success are involved in, and largely dependent upon the assurance offered of the continuance of the present scale,
52 or an even larger basis, of operations in the packing industry of Swift & Company. This has necessitated a large investment in commercial properties, as well as residence facilities and public improvements, and the welfare and prosperity of no inconsiderable body of laboring people will be disastrously affected by a judgment of your Honorable Commission adverse to Respondent and enjoining its future operation of the packing plant at Andalusia, Alabama, or the requiring of it to dispose of the same.

—9—

Your petitioners would further show that the original investment of the Andalusia Packing Company in its plant and equipment was the sum of approximately $144,717.00; that since said plant was acquired by Swift & Company it has expended large additional sums of money in the expansion and development of said plant in the sum of approximately $426,375.00; that, notwithstanding the efforts of your petitioners, Andalusia Chamber of Commerce, and those whom it represents, and Swift & Company, the volume of live stock

in the territory hereinbefore named has not been increased sufficiently to supply the demands of said plant as now constituted, and keep the same running to capacity, but as a matter of fact, sufficient live stock is not, and has not been available to keep the plant supplied to capacity for more than three (3) months in the year; that volume of live stock sufficient to keep the plant running continuously is necessary for its successful, continued operation from a financial stand-
53 point, and that on accout of lack of volume, petitioners are informed and believe and upon such information and belief aver that said plant has been conducted at a large loss since the acquirement by Swift & Company; that from past experience and present indications it will take at lest a period of five years and very probably ten years to increase production in the territory served by said plant, to the extent that a sufficient volume of live stock can be furnished to keep said plant as at present constituted running to capacity; that in the event Swift & Company should be required to dispose of said plant or the stock of same it would be impossible to secure a purchaser or purchasers willing to pay a price any where around the cost of said plant, and in the opinion of your petitioners it could not be sold at all unless it should be to another large packing industry; that based on the facts above set forth, your petitioners are convinced that in the event Swift & Company should be required to dispose of said plant or its stock therein, the inevitable result would be the setting back of the development of the live stock industry which is vital to the continued development of the territory hereinbefore named, for an indefinite period, and which has been fostered and developed largely through the efforts of your petitioners, Andalusia Chamber of Commerce and its members, and said territory would to a great extent be again put in the unfortunate condition and be surrounded by the same difficulties it faced in the year 1914, when the Andalusia Packing Company was first organized. This averment being further borne out by the fact that the boll weevil infestation is still prevalent throughout said territory.

54 —10—

Petitioners, in behalf of all the interests they represent—the citizens, the industries, in fact the agricultural and commercial life of this entire Section of Alabama—are vitally concerned in any order which the Honorable Trade Commis-

sion may make in this proceeding. Petitioners desire that all the facts, necessary and material to the interests involved, be presented in evidence before your Honorable Body, and they fear that such facts and evidence will not be presented, in fact, cannot be presented from the standpoint of the interests represented, unless their prayer is granted, and their intervention allowed.

Wherefore, Petitioners pray that this, their petition for intervention, be considered, and that the same be allowed, ordered filed and be made a part of the record, and that Petitioners be allowed to appear in said proceedings, by them, and their officers, agents and counsel.

Respectfully submitted,
(Signed) J. Morgan Prestwood
" W. H. Albritton
Petitioners Counsel.

Andalusia Chamber of Commerce,
By,
(Signed) Oscar M. Dugger, *Pres.*
" J. G. Scherf, *Secy-Mgr.*

55 State of Alabama }
Covington County }

Before the undersigned officer, authorized under the laws of the State of Alabama to administer oaths, personally appeared Oscar M. Dugger and J. G. Scherf who on oath depose and say, and each deposes and says, that they are the President and Secretary, respectively of the Andalusia Chamber of Commerce, one of the petitioners in the above and foregoing petition for intervention; that they are the officers in active charge of the business of said Andalusia Chamber of Commerce, and that the facts contained in said petition are true; and also personally appeared before said officer A. C. Darling & F. E. Henderson the other petitioners in said above and foregoing petition for intervention, who say under oath that the facts contained in said petition are true.

(Signed) Oscar M. Dugger, *Pres.*
J. G. Scherf, *Secy-Mgr.*
A. C. Darling
F. E. Henderson

Sworn to and subscribed before me, this 23rd day of July, 1921.

(Signed) DUD L. O'NEAL
Notary Public.

(Seal)

of July 1921, ying peti- for in- vention.

56 UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION: ss.

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 30th day of July, A. D., 1921.

Present:

Huston Thompson, Chairman,
Nelson B. Gaskill,
Jno. Garland Pollard,
Victor Murdock,
John F. Nugent.
Commissioners.

Federal Trade Commission
vs.
Swift & Company
} Docket No. 453.

This proceeding coming on to be heard on the application of the Andalusia Chamber of Commerce, of Andalusia, Alabama, praying that it be allowed to intervene in the above entitled case for the purpose of introducing evidence at hearings before an Examiner which are now being conducted at Andalusia, Alabama; and the Commission having duly considered said application and being now fully advised in the premises

It Is Ordered, that said application for leave to intervene be and the same is hereby denied, for the reason that it is against the policy of the Commission to permit intervention by other than actually interested parties, and because the Andalusia Chamber of Commerce may introduce testimony through Swift & Company, the relevancy of which will be determined by the Commission when the Commission finally considers the case.

By the Commission:

(Signed) J. P. YODER
J. P. YODER,
Secretary.

(Seal)

57 (Stamped) Federal Trade Commission Received Mar 14 1922 Secretary's Office.

Federal Trade Commission
vs.
Swift & Company
} Docket Number 453.

Comes the Andalusia Chamber of Commerce, et al, who by and through their attorneys, J. Morgan Prestwood and W. H. Albritton, did heretofore on the ..... day of July, 1921, file a petition asking to be allowed to intervene in this cause and offer testimony in their behalf, and now files with the Honorable Federal Trade Commission the following exceptions:

—1—

They except to and assign as error the Federal Trade Commission's order, denying them the right to intervene in said cause in their own behalf.

—2—

They except to and assign as error the refusal of the Federal Trade Commission to grant their petition filed on the ..... day of July, 1921 for intervention in this cause.

—3—

They except to and assign as error the refusal of the Federal Trade Commission to allow them to offer testimony in their own behalf at the hearing of said cause and the taking of testimony at Andalusia, Alabama.

—4—

They except to and assign as error the refusal on the part of Hon. John W. Bennett, Trial Examiner in this cause to allow them to offer and introduce testimony in this cause in their own behalf.

—5—

They except to and assign as error so far as the same relates to the acquisition of the Andalusia Packing Company

and its conduct by Swift & Company the findings of the facts of the Hon. John W. Bennett, Trial Examiner in this cause.

58 —6—

They except to and assign as error the order suggested to be made by the Trial Examiner in this cause.

W. H. ALBRITTON
J. MORGAN PRESTWOOD
Attys. for the Andalusia Chamber of Commerce et al Intervenors.

59 FEDERAL TRADE COMMISSION

Docket No. 453.

Section VIII.

Copy of Motion to Amend Complaint,

Copy of Notice of Hearing upon Motion,

Copy of Respondent's Objections to Motion to Amend Complaint,

Copy of Reply to Respondents Objections,

Copy of Order Granting Motion to Amend the Complaint, nunc pro tunc,

Copy of Amended or Corrected Complaint.

60 UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION: ss.

Federal Trade Commission,
Complainant.
vs.
Swift & Company,
Respondent.
} Docket No. 453.

MOTION TO AMEND COMPLAINT.

Comes now W. H. Fuller, Chief Counsel, and Wm. T. Chantland, Trial Attorney, and moves the Commission to

amend the complaint in this case to conform to the proof as follows, to wit:

1. By striking from Paragraph IV of division I of said complaint in the sixth line from the end of said paragraph the words, "June 5, 1918," and inserting in lieu thereof the following:

January 5, 1918: and that since the acquisition of said capital stock of respondent, as above set out, respondent has continuously owned said stock in the manner above stated, and does now own same, and has, through its agents, officers, and employees, continuously operated, and controlled the operations of, the plant and business of the said Moultrie Packing Company, whose stock it so acquired, which plant and business respondent operated as the plant and business of the Moultrie Packing Company from about the time of the acquisition of the capital stock, as above set out, up to November 3, 1917, and that from about November 3, 1917, respondent has operated said plant and business as the plant and business of Swift & Company, and does now so operate same.

WTC:CSV
copy HTS

61 2. By inserting in Paragraph IV of division III of said complaint in the fifth line from the end of said paragraph after the words, "Packing Company;" the following: and that since the time of the acquisition of said capital stock by respondent, as above set out, respondent have continuously owned said stock in the manner above stated, and does now so own same, and has, through its agents, officers, and employees, continuously operated, and controlled the operations of, the plant and business of the said Andalusia Packing Company, whose capital stock it so acquired, which it operated from about July 24, 1917, the time of the acquisition of the capital stock, up to about March 30, 1918, as the plant and busines of the Andalusia Packing Company, and from about March 30, 1918, respondent has operated said plant and business as the plant and busines of Swift & Company, and does now so operate same.

And in support of said motion Counsel show to the Commission that the testimony both for the Commission and for respondent fully covered the points of said proposed amendments and was introduced as though said allegations were in said complaint and in issue.

Counsel asks that a day be set for hearing on said motion, and notice thereof fixed to be served upon respondent.

(Signed) W. H. FULLER,
Chief Counsel.
(Signed) WM. T. CHANTLAND,
Trial Attorney.

WTC:CSV
copy HTS

62 UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION: ss.

Federal Trade Commission
vs.
Swift & Company
} Docket No. 453

To: Albert & Henry Veder
76 Monroe St.
Chicago, Ill.
Frank L. Horton,
c/o Swift & Co.
Union Stock Yards
Chicago, Ill.
James M. Sheean
105 S. La Salle St.
Chicago, Ill.

NOTICE.

You will please take notice that the Commission has set Wednesday, March 8, 1922, at 2 p. m. as the time for hearing upon motion of Counsel for the Commission to amend paragraph 4 of division 1 and paragraph 4 of division 3 of the complaint in the above entitled proceding, such hearing to be held in the hearing room in the Federal Trade Commission Building, 2000 D Street N. W. Washington, D. C.; at which time and place you may appear, if you so desire.

Very truly yours,
(Signed) J. P. YODER,
J. P. YODER,
Secretary.

February 21, 1922.

63 UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION: ss.

Federal Trade Commission, *Complainant.*
Swift & Company, *Respondent.*
} Docket No. 453.

RESPONDENT'S OBJECTIONS TO COMMISSION'S MOTION TO AMEND ITS COMPLAINT.

Now comes Swift and Company, Respondent herein, by its attorneys of record and objects to the motion of the Federal Trade Commission to amend its complaint in Docket No. 453, and says that said motion should not be allowed, and objects to said amendment for the following reasons:

(1) The conclusion of the attorneys for the Commission "that the testimony both for the Commission and for Respondent fully covers the points of said proposed amendment and was introduced as though said allegations were in said complaint and in issue" is erroneous.

(2) That the Commission concluded and finished the taking of testimony in said proceedings many months past, on to wit, September 12, 1921; that Respondent did likewise.

(3) That to allow said amendment at this time will put forth entirely new issues from those under which the testimony for both the Commission and Respondent was heretofore taken and will in effect be equivalent to the issuance of a new complaint.

copy HTS

64 (4) Respondent further says that an act of Congress approved August 15, 1921, entitled "An Act to regulate interstate and foreign commerce in live stock, live stock products, dairy products, poultry, poultry products, and eggs, and for other purposes," hereinafter cited as the "Packers and Stockyards Act, 1921," provides:

"Section 406 (b)—On and after the enactment of this act, and so long as it remains in effect, the Federal Trade Commission shall have no power or jurisdiction so far as relating to any matter which by this act is made subject to the jurisdiction of the Secretary, except in cases in which, before the

enactment of this act, complaint has been served under section 5 of the act entitled 'An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes,' approved September 26, 1914, or under section 11 of the act entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, and except when the Secretary of Agriculture, in the exercise of his duties hereunder, shall request of the said Federal Trade Commission that it make investigations and report in any case."

(5) Respondent further states that it is a "packer" within the meaning of that term as used in said act of Congress entitled "Packers and Stockyards Act, 1921" (which said act is hereby incorporated herein by reference thereto), approved August 15, 1921; that the effect of such act is to deprive the Federal Trade Commission of all power and jurisdiction over this Respondent except in cases in which, before the enactment of said act, complaint had been served
65 under section 5 of the act entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914, or under section 11 of the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, and except when the Secretary of Agriculture, in the exercise of his duties under said act, shall request the said Federal Trade Commission to make investigations and report in any case; that the said Secretary of Agriculture has not requested the said Federal Trade Commission to make a report or investigation in any case; and that by amending said complaint in the manner proposed by the Federal Trade Commission, the Federal Trade Commission is asserting and seeking to exercise power, authority and jurisdiction of which it was deprived by said "Packers and Stockyards Act, 1921."

(6) That the Federal Trade Commission has heretofore in, to-wit, its original complaint, issued and served upon this Respondent a complaint stating its charges in writing in respect to an alleged violation of section 5 of an act of Congress, approved September 26, 1914, and section 7 of an act of Congress, approved October 15, 1914, and has heretofore fixed a time and place for a hearing thereunder;
66 that this Respondent, at great expense, has attended three hearings at Chicago, Ill., two at Atlanta, Ga., two at Jacksonville, Fla., two at Birmingham, Ala., two at Pensacola,

Fla., and one each at Moultrie, Ga., and Andalusia, Ala.; that over 4500 pages of testimony have been taken; that numerous witnesses, at great expense to Respondent and considerable inconvience to themselves, have testified at these hearings; that having stated its charges in writing and caused said hearings to be held, the said Federal Trade Commission is without power or authority to amend said complaint, reopen said issues, and/or file a new complaint herein.

Therefore, the Respondent prays that the Federal Trade Commission deny said motion to amend said complaint.

SWIFT AND COMPANY
(signed) By ALBERT H. & HENRY VEEDER
JAMES M. SHEEAN
FRANK L. HORTON,
Its Attorneys

67 UNITED STATES OF AMERICA

BEFERE FEDERAL TRADE COMMISSION: ss.

Federal Trade Commission, *Complainant,*
vs.
Swift and Company, *Respondent.*
} Docket No. 453

REPLY TO RESPONDENT'S OBJECTIONS TO COMMISSION'S MOTION TO AMEND ITS COMPLAINT TO CONFORM TO PROOF.

Comes now Counsel for Federal Trade Commission, and in reply to respondent's objections to Commission's motion to amend its complaint to conform to proof as taken, states that said objections are frivolous, not in good faith and at variance with the pleadings and the records and should not be seriously considered, for the following specific reasons:

First: Respondent in its answer affirmatively alleged the acquisition of and complete control of not only the capital stock, but the physical assets and businesses, following such allegation by a denial that the effect of such acquisitions by respondent was violative of the law; and that the purposes of the transfers made of the physical assets was not to conceal the acquisitions or evade the provisions of the statute;

Second: J. L. Thweatt testified on March 9, 1921, (r. 716-17) that his then occupation was "plant manager for Swift and Company at Andalusia, since October 13, 1919."

H. McDowell, recalled by Counsel for respondent, testified (r. 3153 et seq.) that he at that time was "manager of the Mobile Plant of Swift and Company," and had been such manager, "since February, 1919," and that for one and
68 one-half years prior to that time he was in "the small plant department of Swift & Company's Chicago Office; that is the department which had charge of the so-called small packing houses in the States, including these Southern plants, * * *, including the Moultrie and Andalusia Plants." Mr. McDowell later recalled testified in response to questions of respondent's counsel extensively as to the development of live stock made in the vicinity of these Southern plants following respondent's taking control, with the apparent object of claiming as defensive matter such alleged improvement under their control.

In fact, Mr. Hill, of respondent's counsel, stated that he considered such testimony as to result of respondent's control relevant and material as showing increased production and that he wanted to show the extent of the encouragement "along the lines of placing bulls and boars out among the people" (r. 3362) which were paid for by respondent's Chicago office (r. 3364).

Third: Respondent merely makes the assertion, "that to allow said amendment at this time will bring forth entirely new issues from those under which the testimony for both the Commission and respondent was heretofore taken, and will in effect be equivalent to the issuance of a new complaint." Respondent does not state specifically what said alleged "new issues" are, nor does respondent state in any respect what additional proofs respondent would pro-
69 pose or offer. Moreover, the Commission's counsel proposes no new proof and merely asks for the amendment to conform to the proof as taken, including testimony on the part of respondent as above indicated.

Such amendment is not "equivalent" to the issuance of a new complaint," "nor is it even injecting a single new issue, and that, therefore, points three to six, inclusive, of the objections are not available and have no force.

Wherefore, Counsel for Commission renews its motion to amend to conform to proof; and further asks that the Commission at the time of its ruling on said motion, also set and

fix for the filing of briefs and for final oral argument and submittal.

(Signed) WM. T. CHANTLAND
Trial Counsel.

Rec'd. Copies of the above for Swift & Co 3/6/22
(Signed) LOUIS MACKALL

70 UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION: ss.

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of March, A. D., 1922.

Present:

Nelson B. Gaskill, Chairman,
Victor Murdock,
John F. Nugent,
Huston Thompson,
} Commissioners.

Federal Trade Commission
v.
Swift & Comany

ORDER.

The above case coming on for hearing on this, the 8th day of March, 1922, on Motion of Commission's Counsel to Amend the Complaint to conform to proof, and the Commission having heard said Motion, and having duly considered same and the objections thereto filed by respondent, and being duly advised in the premises, the Commission finds that the Motion is timely and well taken, and that such amendment conforms to the proof, and does not put forth any new issues: wherefore,

It Is Ordered, that for the purpose and reasons stated therein, said motion to amend the complaint to conform to the proof be, and the same is hereby granted as prayed; and,

It Is Hereby Ordered, that said complaint be so amended, nunc pro tunc, as of the date of issuance of said complaint, as follows, to-wit:

1. By striking from Paragraph Four of division 1 of said complaint, in the sixth line from the end of said paragraph,

the words "June 5, 1918", and inserting in lieu thereof the following:

January 5, 1918; and that since the acquisition of said capital stock by respondent, as above set out, respondent has continuously owned said stock in the manner above stated, and does now own same, and has, through its agents, officers and employees continuously operated and controlled the operations of, the plant and business of the said Moultrie Packing Company, whose stock it so acquired, which plant and business respondent operated as the plant and business of the Moultrie Packing Company from about the time of the acquisition of the capital stock, as above set out, up to November 3, 1917, and that from about November 3, 1917, respondent has operated said plant and business as the plant and business of Swift & Company, and does now so operate same.

71 2. By inserting in Paragraph Four of Division III of said complaint, in the fifth line from the end of said paragraph, after the words "Packing Company", the following: and that since the time of the acquisition of said capital stock by respondent, as above set out, respondent has continuously owned said stock in the manner above stated, and does now so own same, and has, through its agents, officers and employees, continuously operated, and controlled the operations of, the plant and business of the said Andalusia Packing Company, whose capital stock it so acquired, which it operated from about July 24, 1917, the time of the acquisition of the capital stock, up to about March 30, 1918, as the plant and business of the Andalusia Packing Company, and from about March 30, 1918, respondent has operated said plant and business as the plant and business of Swift & Company, and does now so operate same.

And,

It Is Further Ordered, that corrected copies of the complaint, with such amendments incorporated, and omitting divisions V and VI, heretofore segregated (and now being Commission's Docket 775) be prepared for the files and record, and one copy to be attached to this Order for service upon respondent. And,

It Is Further Ordered, that the answer of the respondent and all the testimony taken in the case shall stand as made and offered, under the complaint as thus amended.

By the Commission:

(Signed) J. P. YODER,
Secretary.

(Seal).

72 (Corrected Copy)

UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION: ss

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 24th day of November, A. D., 1919.

Present:

John Franklin Fort, Chairman,
Victor Murdock,
Huston Thompson,
William B. Colver,
Commissioners.

Federal Trade Commission
v.
Swift & Company.
} Docket No. 453

Complaint in the Matter of the Alleged Violation of Section 7 of an Act of Congress Approved October 15, 1914, and Section 5 of an Act of Congress Approved September 26, 1914, (Corrected, to Conform to Proof, and to Severance Made as of April 18, 1921).

I.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it that Swift & Company, hereinafter referred to as the respondent, has been and is violating the provisions of Section 7 of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," issues this complaint, stating its charges in that respect on information and belief as follows:

Paragraph One: That the respondent, Swift & Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at the City of Chicago, in said State, and has been and is now and at all times hereinafter mentioned engaged in the business of slaughter-

ing live stock, and of producing and dealing in meats and all kinds of products and by-products arising out of the slaughtering of live stock, including leather; said products, by-products and commodities being sold by respondent in the various States of the United States, the territories thereof, and the District of Columbia, and when sold respondent causes same to be transported from one or more of said States and territories through and into other States and Territories of the United States and the District of Columbia.

Paragraph Two. That the Moultrie Packing Company at all the times hereinafter mentioned, was a corporation organized and existing under the laws of the State of Georgia, with its principal place of business at Moultrie, in said State, and was engaged in the business of slaughtering live stock and of producing and dealing in meats and all kinds of products and by-products arising out of the slaughtering of live stock, causing said products and by-products to be transported when sold, from the State of Georgia, through
73 and into other States of the United States, the territories thereof and to the District of Columbia, and prior to June 1, 1917, was in direct competition with respondent and other persons, partnerships and corporations similarly engaged.

Paragraph Three: That Section 7 of an Act of Congress approved October 15, 1914, entitled, "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", is and provides, in part, as follows:

"That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged also in commerce, where the effect of such acquisition may be to substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce."

Paragraph Four: That on or about June 1, 1917, the respondent purchased 956 shares of the total of 966 shares of the capital stock of said Moultrie Packing Company issued and outstanding, and caused the same to be transferred on the books of said company and reissued to certain officers and employees of the respondent, who thereby became and remained record holders of said stock, but who held the same for the use and benefit of the respondent; that thereafter, on

or about the 13th day of August, 1917, the respondent caused its said officers and employees who held the said stock to hold a stockholders' meeting of said company and at such meeting to elect as directors of said Moultrie Packing Company certain officers and employees of the respondent; that thereafter the respondent arranged to acquire the physical assets and properties of the said Moultrie Packing Company, and caused its said officers and employees, who were the directors and stockholders thereof, to accept an offer of purchase from the respondent and to pass a resolution directing a division of the surplus assets of the Moultrie Packing Company among the stockholders of said company, and a sale of the remaining asset, including the plant, fixtures, machinery and good-will of said company to the respondent; that said sale and transfer was authorized by the Board of Directors of said Moultrie Packing Company composed of officers and employees of the respondent, on or about November 3, 1917, and was ratified at a special meeting of the stockholders of said company, all of whom were officers and employees of the respondent, on or about January 5, 1918; and that since the acquisition of said capital stock by respondent, as above set out, respondent has continuously owned said stock in the manner above stated, and does now own same, and has, through its agents, officers and employees, continuously operated, and controlled the operations of, the plant and business of the said Moultrie Packing Company, whose stock it so acquired, which plant and business respondent operated as the plant and business of the Moultrie Packing Company from about the time of the acquisition of the capital stock as above set out, up to November 3, 1917, and that from about November 3, 1917, respondent has operated said plant and business as the plant and business of Swift & Company, and does now so operate same. That the effect of all the foregoing was to substantially lessen competition between respondent and said Moultrie Packing Company; to restrain commerce in the section and community of and adjacent to Moultrie, Georgia, and elsewhere; and to tend to create a monopoly of the lines of commerce carried on by the respondent and said Moultrie Packing Company.

74 Paragraph Five: That the transfer and issue of said stock of the said Moultrie Packing Company to officers and employees of the respondent, the election of employees and officers of respondent as directors and officers of said Moultrie Packing Company, and the pretended sale by such officers of the physical assets and properties of said Moul-

trie Packing Company to the respondent, were intended by the respondent to conceal the acquisition by it of the said stock of said Moultrie Packing Company, and were intended as a device to evade the provisions of Section 7 of the said Act of Congress approved October 15, 1914.

II.

And the Federal Trade Commission, having reason to believe from a preliminary investigation made by it, that Swift & Company, hereinafter referred to as respondent, has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and it appearing that a proceeding by it in respect thereof would be to the interest of the public, issues this complaint stating its charges in that respect on information and belief as follows:

Paragraph One: As grounds for said complaint, said Commission relies upon the matters and things set out in paragraphs One, Two and Four of count 1 of this complaint, to the same extent as though the allegations thereof were set out at length herein, and said paragraphs One, Two and Four are incorporated herein by reference and adopted as a part of the allegations of this count.

III.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it that Swift & Company, hereinafter referred to as the respondent, has been and is violating the provisions of Section 7 of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," issues this complaint, stating its charges in that respect on information and belief as follows:

Paragraph One: As grounds for said complaint, said Commission relies upon the matters and things set out in paragraph One of count I of this complaint, to the same extent as though the allegations thereof were set out at length herein, and said paragraph One is incorporated herein by reference and adopted as a part of the allegations of this count.

Paragraph Two: That the Andalusia Packing Company at all the times hereinafter mentioned, was a corporation organized and existing under the laws of the State of Alabama, with principal place of business at Andalusia, in said State, having capital stock of $133,250, divided into shares of par value of $50 each, and was engaged in the business of slaughtering live stock and of producing and dealing in meats and all kinds of products and by-products arising out of the slaughtering of live stock, causing said products to be transported when sold, from the State of Alabama, through
75 and into other States of the United States, the territories thereof and the District of Columbia, and prior to July 24, 1917, was in direct competition with respondent and other persons, partnerships and corporations, similarly engaged.

Paragraph Three: That section 7 of an Act of Congress approved October 15, 1914, entitled, "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," is and provides, in part, as follows:

"That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged also in commerce, where the effect of such acquisition may be to substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce."

Paragraph Four: That on or about July 24, 1917, the respondent purchased all of the capital stock of said Andalusia Packing Company, issued and outstanding, and caused the same to be transferred on the books of said company, and issued to certain officers and employees of the respondent who thereby became and remained record holders of said stock, but who held the same for the use and benefit of the respondent; that thereafter, on or about the 24th day of July, 1917, the respondent caused its said officers and employees who held said stock to hold a stockholders' meeting of said company, and at such meeting to elect as directors of said Andalusia Packing Company certain officers and employees of the respondent; that thereafter the respondent arranged to acquire the physical assets and properties of the said Andalusia Packing Company and caused its officers and employees who were the directors and stockholders thereof to accept an offer of purchase from the respondent and to pass a resolution direct-

ing a division of the surplus assets of said Andalusia Packing Company among the stockholders of said Company, and the sale of the remaining assets, including the plant, fixtures, machinery and good-will of said company to the respondent; that said sale and transfer were authorized by the board of directors of said Andalusia Packing Company, composed of officers and employees of the respondent, on or about March 30, 1918; that on or about June 29, 1918, said board of directors, composed as aforesaid of officers and employees of respondent, resolved to liquidate said Andalusia Packing Company, and that since the time of the acquisition of said capital stock by respondent, as above set out, respondent has continuously owned said stock in the manner above stated, and does now so own same, and has, through its agents, officers and employees, continuously operated, and controlled the operations, of, the plant and business of the said Andalusia Packing Company, whose capital stock it so acquired, which it operated from about July 24, 1917, the time of the acquisition of the capital stock, up to about March 30, 1918, as the plant and business of the Andalusia Packing Company, and from about March 30, 1918, respondent has operated said plant and business as the plant and business of Swift & Company, and does now so operate same. That the effect of all the foregoing was to substantially lessen competition between the respondent and said Andalusia Packing Company, to restrain commerce in the section and community of and adjacent to Andalusia, Alabama, and elsewhere; and to tend to cre-
76 ate a monopoly of the lines of commerce carried on by respondent and said Andalusia Packing Company.

Paragraph Five: That the transfer and issue of said stock of said Andalusia Packing Company to officers and employees of the respondent, the election of officers and employees of respondent as directors and officers of the said Andalusia Packing Company, and the pretended sale by such officers of the physical assets and properties of the said Andalusia Packing Company, were intended by the respondent to conceal the acquisition by it of the said stock of said Andalusia Packing Company, and were intended as a device to evade the provisions of Section 7 of said Act of Congress approved October 15, 1914.

IV.

And the Federal Trade Commission having reason to believe, from a preliminary investigation made by it, that Swift

& Company, hereinafter referred to as respondent, has been and is using unfair methods of competition in interstate commerce, in violation of the provisions of Section 5 of an Act of Congress approved September 26, 1914, entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", and it appearing that a proceeding by it in respect thereof would be to the interest of the public, issues this complaint, stating its charges in that respect on information and belief, as follows:

Paragraph One: As grounds for said complaint, said Commission relies upon the matters and things set out in Paragraph One of Count I, and paragraphs Two and Four of count III of this complaint, to the same extent as though the allegations thereon were set out at length herein, and said paragraphs are incorporated herein by reference, and adopted as part of the allegations of this count.

Now, Therefore, Notice Is Hereby Given You, the said Swift & Company, that the charges of this complaint will be heard by the Federal Trade Commission at its office in the City of Washington, D. C., on the 12th day of January, A. D. 1920, at 10:30 o'clock in the forenoon of the said day, or as soon thereafter as the same may be reached, at which time and place you shall have the right to appear and show cause why an order should not be entered by the Federal Trade Commission, requiring you to cease and desist from the violations of law charged in this complaint, and requiring said respondent to divest itself of the stock or share capital unlawfully held in said Moultrie Packing Company and the Andalusia Packing Company.

And You Will Further Take Notice that within thirty (30) days after the service of this complaint you are required to file with the Commission an answer in conformity with Rule III of the Rules of practice before the Commission.

In Witness Whereof, the Federal Trade Commission has caused this complaint to be issued, signed by its Secretary, and its official seal to be affixed hereto, at the City of Washington, D. C., this 24th day of November, A. D., 1919.

By the Commission.

(Signed) J. P. YODER,
Secretary.

(Seal)

CLAUDE R. PORTER,
Chief Counsel for the Commission.

77 FEDERAL TRADE COMMISSION

Docket No. 453

Section IX.

Copy of Findings as to Facts and Conclusion,

Copy of Order to Cease and Desist and to Divest Stock.

78 UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3d day of August, A. D., 1922.

Present:

Nelson B. Gaskill, Chairman,
Victor Murdock,
John F. Nugent,
Huston Thompson,
Vernon W. Van Fleet,
Commissioners.

Federal Trade Commission
vs.
Swift and Company.
} Docket No. 453

FINDINGS AS TO THE FACTS AND CONCLUSION.

The Federal Trade Commission having issued and served its complaint herein, wherein it is alleged that it had reason to believe that the above named respondent, Swift and Company, has been and now is using unfair methods of competition in interstate commerce, in violation of Section 5 of an Act of Congress approved September 26, 1914, entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes"; and that said respondent, Swift & Company, has been and is violating the provisions of Section 7 of an Act of Congress approved October 15, 1914, entitled, "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes"; and that a proceeding by it as to such alleged vio-

lation of Section 5 of the Act of September 26, 1914, would be to the interest of the public; and fully stating its charges in that respect; and respondent having entered its appearance by Messrs. Albert H. and Henry Veeder, of Chicago, Illinois, its attorneys, and have duly filed its answer, admitting certain of the allegations of said complaint and denying others, and hearings in said proceeding having taken place before an Examiner of the Commission, and the Commission having offered evidence in support of the charges of said complaint, and respondent having offered evidence in its own defense, and both parties to this proceeding having rested, and the attorneys of both parties having fully argued the issues in the proceeding, and having presented said issues herein to the Commission for final consideration and determination, and the Commission having duly considered the record herein, and being fully advised in the premises, now makes its report and findings as to the fact and conclusion:

Findings as to the Facts:

Paragraph One: That respondent, Swift & Co., organized in 1885, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located in the City of Chicago, Illinois, and respondent during all of said time has been and now is engaged in the meat-packing industry and trade, including the purchasing and slaughtering
79 of livestock and in the converting and producing of meat and meat products and by-products, and in the sale and shipment and distribution thereof into and through the various States of the United States, the Territories thereof and the District of Columbia, selling, shipping and distributing same through its various branch houses; and respondent, during said period, has been and now is in direct competition with other persons, partnerships and corporations similarly engaged (except as respondent may have been self-restrained by illegal pools, agreements or understandings) and respondent was thus engaged in competition with the Moultrie Packing Co., of Moultrie, Georgia, from about December, 1914, up to the time respondent acquired the capital stock of said company, about June 1, 1917; and respondent was likewise thus engaged in competition with the Andalusia Packing Co., of Andalusia, Alabama, from about May, 1916, to the time when respondent acquired the capital stock of the said company, about July 24, 1917.

Paragraph Two: That the Moultrie Packing Company, organized in 1913, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its principal office and place of business in the City of Moultrie, Georgia, and that said Moultrie Packing Co., from about December, 1914, up to about June, 1917, was continuously engaged in the meat-packing industry and trade, including the purchasing and slaughtering of livestock and the converting and preparation therefrom of meat and meat products and by-products, and in the sale, shipment and distribution of said commodities throughout the State of Georgia, and of a substantial portion of said products, estimated at one-third, from the State of Georgia through and into other States of the United States, and more particularly through and into the States of Florida and Alabama; and in said business of sale, shipment and distribution said Moultrie Packing Company was, prior to June 1, 1917, in direct competition in interstate commerce with respondent and other persons, partnerships and corporations similarly engaged.

Paragraph Three: That the Andalusia Packing Company, organized in October, 1915, is a corporation organized and existing under and by virtue of the laws of the State of Alabama, with its principal office and place of business in the City of Andalusia, Alabama, and said Andalusia Packing Co., from about May or June, 1916, up to about July 24, 1917, was continuously engaged in the meat-packing industry and trade, including the purchasing and slaughtering of livestock and the converting and preparation therefrom of meat and meat products and by-products, and in the sale, shipment and distribution of said commodities throughout the State of Alabama, and of a substantial portion of said products, estimated at one-fourth, from the State of Alabama through and into other States of the United States, and, more particularly, through the States of Georgia and Florida; and in said business of sale, shipment and distribution, said Andalusia Packing Co. was, prior to about July 24, 1917, in direct competition in interstate commerce with respondent and other persons, partnerships and corporations similarly engaged.

Paragraph Four: That:

(a) Between March 15, and August 2, 1917, respondent, Swift & Company, acquired by purchase, the entire then outstanding capital stock of said Moultrie Packing Company, and caused such capital stock, except twenty shares thereof

not then delivered, to be issued in the names of certain of its officers and employes, and to be held for the use and
80 benefit of said respondent. In the course of the months of June, July and August, 1917, respondent, through said stock ownership, assumed full possession and control of the plant, assets and business of said Moultrie Packing Company, and at all times thereafter retained and exercised such control. Details of said acquisition and control are substantially as follows:

(b) Moultrie Packing Company, a corporation mentioned in Paragraph Two hereof, was organized under the laws of the State of Georgia, on or about October 8, 1913, by W. C. Vereen and other persons in and about the City of Moultrie, in said State, for the purpose of conducting a general packing business, dealing in livestock, meats of all kinds, cold storage of meats, vegetables and other articles, and in the manufacturing of ice. Said Moultrie Packing Company had an authorized capital stock of $300,000.00, divided into shares of $100 each. A plant was constructed at the City of Moultrie, Georgia, and was opened for business in the Autumn of 1914, and from about December, 1914, up to about June 1, 1917, said Moultrie Packing Company continued in increasing volume its operations of purchasing and slaughtering live stock and in preparing and converting of meat and meat products and by-products therefrom, and in their general sale and distribution. In the course of the next year it secured more live stock than it could slaughter, and extended the market for its products to Atlanta, Georgia; Jacksonville, Florida; Birmingham, Alabama, and to other cities and to other States. Sales by said Moultrie Packing Company were made chiefly through brokers, although it also employed salesmen.

(c) F. A. Hunter, of St. Louis, Missouri, General Manager of respondent, Swift & Company, at National Stock Yards, Missouri, in the early spring of 1917, visited the plant of said Moultrie Packing Company, of Moultrie, Georgia, and introduced himself to said W. C. Vereen, then President of said Moultrie Packing Company, whom he found at said plant. Said Hunter stated that he represented Swift & Company, and asked permission to inspect the plant of said Moultrie Packing Company. He was given such permission and made such inspection.

(d) Several weeks later, said Hunter called upon said Vereen in the Piedmont Hotel, in Atlanta, Georgia. At this time said Hunter asked said Vereen if he would not sell the

Moultrie Packing Company. Said Hunter said he would try to make the sale of said Company to Swift & Company.

(e) Several weeks later, May 14, 1917, said Hunter called said Vereen on long distance telephone from Montgomery, Alabama, and made an appointment for said Vereen to meet Louis F. Swift, an Executive Officer of Swift & Company, respondent herein, at Jacksonville, Florida, the next morning. Said Vereen and said Swift met at the Windsor Hotel, in Jacksonville, May 15, 1917. Said Swift and said Vereen talked over the business of said Moultrie Packing Company, and the source of its supply of live stock, referring to a map as they did so. Said Vereen told said Swift that said Vereen would sell his stock in the Moultrie Packing Company for $150. a share, and could probably get all the other stock of said Moultrie Packing Company for the same price. Said Swift offered said Vereen $125. a share for said stock of said Moultrie Packing Company and said Vereen objected that that was not enough, basing his objection upon the earnings of said Moultrie Packing Company. Then said Swift remarked:

81 "Don't you believe, if I were to go to Albany or to Valdosta, Georgia, and tell them I would put up a packing plant there twice as large as the Moultrie plant, that they would give me $50,000 or $75,000?"

Mr. Vereen stated in his testimony:

"I thought a moment, and I said, 'Yes, Mr. Swift, I believe they would'; for the reason that I knew that Albany and Valdosta, at that time, were very, very anxious to have a packing plant." (Testimony of W. C. Vereen, Transcript p. 553.)

There was some further discussion and said Vereen agreed to give said Swift an option till June 1, 1917, on the stock that he owned personally in said Moultrie Packing Company, and to buy up for him at the same price the stock held by others. An option of the above tenor was given at that time by the said Vereen to said Swift, the price of said stock being named as $125 per share. Said Swift reduced said option to writing and it was signed in duplicate at once by said Vereen, and dated May 15, 1917. The option as prepared by said Swift was taken in the name of said F. A. Hunter, and recited that outstanding stock was about $97,000 par, and that the books of the Company showed a profit of about $90,000. Said Swift told said Vereen that if any correspondence became necessary, to address Mr. H. J. Nelson, Swift & Company, Union Stock Yards, Chicago.

(f) Said Vereen, on his return to Moultrie, called a meeting of the Board of Directors of said Moultrie Packing Company, told them of his conversation with said Swift, and they agreed to accept $125 per share for their holdings of stock in said Moultrie Packing Company, and to take up with all stockholders of said Moultrie Packing Company the matter of getting them to sell their stock at the same price. Said option expired June 1, 1917, and was extended by said Vereen until July 1, 1917. Said Vereen succeeded, early in June, 1917, in getting all of the outstanding capital stock of Moultrie Packing Company, 966 shares in all, except 20 shares which at that time was located but not available for various reasons, and sent said stock to the Fort Dearborn National Bank, at Chicago, with instructions to said bank to deliver said stock to Swift and Company, respondent herein, on payment for it of $125 a share. The stock was afterwards paid for and delivered to respondent, Swift and Company, and the 20 additional shares were later secured and delivered to respondent, Swift & Company.

(g) A financial statement of said Moultrie Packing Company, submitted to its president by its auditor, May 15, 1917, showed net profits of said Company from January 1, 1917, to April 30, 1917, of $62,843.76 and a surplus of $92,170.79.

(h) Prior to May 28, 1917, respondent, Swift & Company, after a meeting of certain of its officers and employes in its Board room in Chicago, acting for and on behalf of respondent, caused O. C. E. Matthies, its Auditor, to proceed to Moultrie, Georgia, and make an audit of the books of said Moultrie Packing Company. This audit as reported June 1, 1917, to H. J. Nelson, an officer of Swift & Company, respondent,

82 set forth among other things, that "As a result of this investigation, I am of the firm conviction that the capital stock of this concern is worth $165 per share as a going concern, and recommend its purchase. * * *"

(i) As of the same date, W. A. Burnett was also sent to Moultrie, Georgia, by respondent, to make a physical inspection of the plant of said Moultrie Packing Company. He reported thereafter upon its condition and the estimated cost of changes which were recommended. His report indicated that the physical plant was worth about $202,500.

(j) In June, 1917, Swift & Company sent H. C. Wallow, its employe at Chicago, to take charge of the office of said Moultrie Packing Company, and sent F. A. Luchsinger to "watch things" and work with Mr. Brooks, then Manager of said Moultrie Packing Company. Mr. Luchsinger was to

be the representative of the respondent, Swift & Company, at said plant. Mr. Brooks remained with said Moultrie Packing Company until about November 1, 1917, but after the coming to Moultrie of said Luchsinger Mr. Brooks was under the direction of respondent, Swift & Company, in his activities at said plant.

(k) August 13, 1917, stockholders of said Moultrie Packing Company held an adjourned annual meeting at Moultrie, Georgia, at which said W. C. Vereen and said C. H. Wallow, each credited with five shares of the capital stock of said Moultrie Packing Company, were present in person, and W. B. Traynor, C. A. Peacock, J. J. McGuire, T. H. Ingwersen, H. C. Carr and E. B. Kixmiller were represented by proxies. In all, 798 shares were there represented. All stockholders represented or present at said meeting, except said W. C. Vereen, were then officers or employes of respondent, Swift & Company, and held the stock of said Moultrie Packing Company for the use and benefit of said respondent. Said W. C. Vereen was given five shares of stock, to qualify him as an officer and director, which stock he at once upon securing indorsed in blank and returned to Swift & Company. At said stockholders' meeting of August 13, 1917, T. H. Ingwersen, F. J. King, H. C. Carr, A. B. Kixmiller, O. C. E. Matthies and F. A. Luchsinger, all employes or officers of Swift & Company, were elected directors of said Moultrie Packing Company. W. C. Vereen, then without pecuniary interest in said Moultrie Packing Company, was also elected a director. Said stockholders, at said meeting of August 13th, 1917, also elected the following officers:

T. H. Ingwersen, President; O. C. E. Matthies, Vice President; C. H. Wallow, Secretary & Treasurer; C. A. Peacock, Assistant Secretary; J. J. McGuire, Assistant Treasurer. All of said officers were then officers or employes of Swift & Company.

(l) November 3, 1917, T. H. Ingwersen, F. J. King, H. C. Carr, E. B. Kixmiller, and O. C. E. Matthies, all then officers or employes of respondent, met in Chicago as directors of said Moultrie Packing Company; C. A. Peacock, also an officer of respondent, was also present and acted as Secretary and said officers and employes, acting at the same time as such directors of said Moultrie Packing Company, at the instance and direction of respondent, at said meeting of November 3, 1917, adopted a resolution to sell all the business and property of said Moultrie Packing Company to Swift & Company, of Illinois, respondent herein, authorizing and

directing the President to carry such sale into effect, and providing that the Company be wound up and liquidated
83 and its assets be distributed among the stockholders in proportion to their holdings.

(m) At a special meeting of stockholders held at Moultrie, Georgia, January 5, 1918, at which F. A. Luchsinger, W. C. Vereen and C. H. Wallow were present in person, and T. H. Ingwersen, F. J. King, H. C. Carr, E. B. Kixmiller, O. C. E. Matthies, W. B. Traynor, C. A. Peacock and J. J. McGuire were represented by proxy, said action of said Board of Directors, at its meeting November 3, 1917, selling the property and business of the said Moultrie Packing Company was, at the instance and direction of the respondent, confirmed, and said Moultrie Packing Company was ordered wound up and liquidated, and its assets distributed to stockholders in proportion to their holdings. At said stockholders' meeting of January 5, 1918, 956 shares of the capital stock of said Moultrie Packing Company were represented, being all the outstanding stock except ten shares. All stockholders at said meeting of January 5, 1918, were officers and employes of respondent, Swift & Company, except the said W. C. Vereen, who had no pecuniary interest in the five shares of stock which he then held.

(n) A written instrument, dated November 3, 1917, evidences the sale by said Moultrie Packing Company to Swift & Company, of Illinois, respondent herein, of its entire business and plant except real estate, and a deed dated November 24, 1917, evidences the sale by said Moultrie Packing Company of its real estate at Moultrie, Georgia, to Swift & Company. Said written instrument and deed were without consideration (other than nominal) moving to said Moultrie Packing Corporation, and constituted and were mere paper transfers to respondent in the carrying out of the intent and purpose of respondent, following, and as a result of, respondent's prior illegal acquisition of the capital stock of the said Moultrie Packing Company.

Paragraph Five: That:

(a) On or about July 24, 1917, respondent, Swift & Company, acquired by purchase the entire outstanding capital stock of said Andalusia Packing Company, and caused said capital stock to be reissued to numerous persons who were then officers or employes of respondent, which persons held such stock for the use and benefit of respondent. In the month of August, 1917, respondent, through such stock ownership, assumed complete possession and control of the plant,

assets and business of said Andalusia Packing Company, and at all times thereafter retained said possession and control. Details of such acquisition and control are in substance as follows:

(b) On or about October 8, 1915, T. E. Henderson, and other residents of Andalusia, Alabama, and in the neighborhood thereof, organized said Andalusia Packing Company, under the laws of the State of Alabama, with power to build, operate and maintain a packing house or packing plant or cold storage buildings and to engage in, carry on and operate a general packing-house and cold-storage business. Said Andalusia Packing Company had an authorized capital stock of $250,000, all of one class, divided into 5,000 shares of $50 each, par value. Said stock was sold to about 150 to 200 subscribers in the City of Andalusia and the neighborhood thereof, until about 2665 shares of such stock were outstanding.

84 (c) After the organization of said Andalusia Packing Company, and prior to July, 1916, said corporation constructed a packing plant in said City of Andalusia.

(d) About June, 1916, said plant began the operations of purchasing and slaughtering livestock and conducting a general packing and cold storage business, although the volume of said business was not large until October, 1916, and thereafter. Said Andalusia Packing Company secured its livestock principally in the surrounding territory, and found a market for its goods in the State of Alabama, Georgia and Florida, and other States. Its principal output was pork and pork products. Its business grew rapidly and it found a ready and profitable market for its products.

(e) Late in May, or early in June, 1917, F. A. Hunter, of St. Louis, General Manager of respondent, Swift & Company, of National Stock Yards, Illinois, and H. C. Carr, of the livestock-buying and dressed beef department of respondent, Swift & Company, visited Andalusia, Alabama, and inspected the plant of said Andalusia Packing Company. They had met President T. E. Henderson, and after the inspection of said plant, called upon him at his office in a bank in Andalusia, in which he was also an officer. Livestock and packing-house conditions were discussed, and said Hunter, before leaving, asked said Henderson if he and his associates wanted to sell their plant. Said Henderson replied that he had not thought of it, and anticipated that there might be trouble with stockholders if such a sale were attempted. Said Hunter finally told said Henderson that if he and his associates wished to

sell said Andalusia plant, to write said Carr at Chicago. Said Henderson replied that he would prefer to put it in this way: "If you gentlemen take a notion that you want to buy this plant, you let me know." That ended the conversation at the time.

(f) Ten days or two weeks thereafter, said Carr wrote said Henderson a letter concerning the purchase of said Andalusia Packing Company plant, and said Henderson replied by telegram, dated June 5, 1917, advising said Carr to send a representative to "discuss matter." Said Carr wired said Henderson, June 6, 1917, that he would be in Andalusia June 8, 1917, and said Henderson by wire made an appointment with said Carr at said Henderson's office in Andalusia on that date.

(g) Said Carr kept said appointment, meeting said Henderson at Andalusia, June 8, 1917, and also meeting A. C. Darling, a stockholder, and then Secretary of said Andalusia Packing Company. As a result, said Henderson and said Darling gave said Carr an agreement in writing, running to H. C. Carr, "for Swift and Company", amounting to a sort of option at $75 per share, par value $50, until June 27, 1917, upon the capital stock held individually by said Henderson, and said Darling, in said Andalusia Packing Company, being 144 shares owned by said Darling and 130 shares owned by said Henderson. Said Darling and said Henderson agreed, also, to use their best efforts toward buying the remaining shares of stock in said Andalusia Packing Company at $75 per share, for respondent. In the event of their failing to secure the other stock, the option upon their own stock was not to bind them.

(h) Telegrams were exchanged thereafter between said Carr and said Henderson, resulting in a telegraphic confirmation by said Henderson, June 26, 1917, of the sale of said
85 2665 shares of the capital stock of said Andalusia Packing Company, at $70 a share. The facts developed in this proceeding do not fully reveal the reason why the price for said capital stock was finally fixed at $70, rather than $75, per share, the price named in said option, but there were some indications that respondent let it be known to said Henderson and said Darling that an alternative proposition was then being considered by respondent of establishing a packing plant in Montgomery, Alabama. Said Carr and said Henderson also corresponded as to details of such sale, such as the assumption of debts of said Andalusia Packing Company by respondent; in relation to outstanding accounts; inventory

files and other details, having exchanged letters June 28 and July 2 and 9, 1917.

(i) Respondent, Swift & Company, sent its attorney, R. E. Fisher, to Andalusia, Alabama, prior to July 11, 1917, and said attorney examined the corporate records of said Andalusia Packing Company and the titles to its properties, and reported favorably by telegram to Swift & Company's attorneys in Chicago, July 11, 1917, and to Louis F. Swift, President of respondent in Chicago, by letter of July 14, 1917. Respondent, Swift & Company, also sent its auditor, O. C. E. Matthies, to Andalusia, who checked up inventories and accounts and made a report thereon; and the construction department of respondent inspected and reported upon the plant of said Andalusia Packing Company. All these matters are summarized in a memorandum dated July 20, 1917, signed by said Carr and addressed by initials to several officers of respondent. At this time said Andalusia Packing Company showed a surplus of $62,724.32, as a result of operation up to May 1, 1917.

(j) Certain agreements of guarantee dated July 24, 1917, fixing definitely outstanding notes of said Andalusia Packing Company, and certifying that the shares of capital stock sold were the only shares outstanding, were made by said Henderson and said Darling with the officers of respondent, Swift & Company.

(k) Assignments in blank of certificates covering all the shares of capital stock of said Andalusia Packing Company then outstanding were secured from all the stockholders by said Henderson and Darling, in the course of a few weeks following their giving of an option on their capital stock to respondent.

(l) After all said stock had been thus secured, said Henderson and said Darling proceeded with the certificates thereof to Chicago, and on July 24, 1917, said certificates of said stock were delivered by said Henderson and Darling in the Directors' room of respondent in Chicago, assigned in blank, to a representative of respondent, Swift & Company. Said H. C. Carr, T. H. Ingwersen and L. A. Carton, of respondent, being present at the time.

(m) Respondent, Swift & Company, by its check, paid said Henderson $186.550 for said 2665 shares of capital stock of said Andalusia Packing Company, and said payment was entered in the investment ledgers of respondent, Swift & Company.

(n) Said Swift & Company sent to Andalusia, Alabama,

to take control of the business and property of said Andalusia Packing Company, about July 16, 1917, G. D. Rogers
86 and C. B. Colt, both then employes of respondent, and said Rogers and said Colt, immediately upon the acquisition of said stock by respondent, July 24, 1917, assumed such control on behalf of respondent. T. G. Conner, former superintendent of said plant at Andalusia, remained in the employ of said Andalusia Packing Company until about November, 1917, but during that time worked under the direction of respondent.

(o) While in said Directors' room, said Henderson, as President, and said Darling, as Secretary, of said Andalusia Packing Company, signed new certificates of stock in said Andalusia Packing Company to T. H. Ingwersen, for 820 shares; to G. D. Rogers, for 100 shares, to H. C. Carr for 820 shares, to W. B. Traynor for 825 shares, to T. E. Henderson for 100 shares—being in all 2665 shares, the total capital stock of said Andalusia Packing Company then outstanding. All persons to whom said stock was then so assigned were then officers or employes of respondent, except said T. E. Henderson, and said Henderson immediately assigned his said certificate of stock in blank and returned it to a representative of Swift & Company, respondent. The stock was then placed nominally in the name of said Henderson, to qualify him as a director and as Vice President of said Andalusia Packing Company, at the request of said Carr, of respondent, Swift & Company.

(p) T. E. Henderson, T. H. Ingwersen and G. D. Rogers, represented by proxy to H. C. Carr; H. C. Carr and W. C. Traynor, holding 2665 shares of stock of said Andalusia Packing Company, being all of said stock then outstanding, met at the Northeast corner of Exchange and Packers Avenue, Chicago, July 24, 1917, and amended the by-laws of said Andalusia Packing Company as to the places at which corporate business of said Andalusia Packing Company might thereafter be transacted, and as to other points Said Henderson, who had secured in advance resignations of officers and directors of said Andalusia Packing Company in office before said stock had been acquired by respondent, presented such resignations at said meeting; said resignations were accepted and the following directors were elected: W. B. Traynor, T. H. Ingwersen, G. D. Rogers, H. C. Carr—all officers or employes of respondent. Said Henderson was permitted to remain a director, at the request of said Carr.

(q) Said directors held a special meeting, at the same

place, immediately after said stockholders' meeting, all except said Rogers being present, and after having accepted the resignation of the former officers of said Andalusia Packing Company, elected the following officers: T. H. Ingwersen, President; T. E. Henderson, First Vice President; C. A. Peacock, Secretary; C. M. Williamson, Treasurer, and J. J. McGuire, Assistant Treasurer—all of said officers so elected being the officers or employes of respondent, except said Henderson, who accepted his office at the request of said Carr, of respondent, Swift & Company. It was resolved by said directors that said G. D. Rogers should thereafter countersign all checks of said Andalusia Packing Company drawn against its funds in bank, and C. B. Colt, also an employe of respondent, was made statutory agent of said corporation in Alabama.

(r) At a special meeting of the Board of Directors of said Andalusia Packing Company, held at Union Stock Yards, Chicago, August 7, 1917, C. M. Williamson, as Treasurer, was authorized to sign checks against the funds in bank of said corporation, and said checks were to be countersigned by said G. D. Rogers.

87 (s) At a special meeting of the directors of said Andalusia Packing Company at Union Stock Yards, Chicago, August 14, 1917, C. B. Colt was elected and designated to succeed to the functions of C. M. Williamson, Treasurer of said corporation.

(t) Stockholders of said Andalusia Packing Company, including said H. C. Carr, W. B. Traynor and T. E. Henderson, representing the capital stock of said corporation to the number of 1745 shares, met at Union Stock Yards, Chicago, in annual meeting, October 8, 1917, and reelected the directors elected July 24, 1917.

(u) T. H. Ingwersen, H. C. Carr and W. B. Traynor, being a majority of the then directors of the Andalusia Packing Co., met October 29, 1917, at Union Stock Yards, Chicago, and reelected the officers of said corporation then holding.

(v) Directors of said Andalusia Packing Company met at Union Stock Yards, Chicago, March 26, 1918, T. H. Ingwersen, W. B. Traynor and H. C. Carr being present, with C. A. Peacock acting as Secretary, and resolved that a dividend of $97,276.14 be declared, payable March 30, 1918, to stockholders of record on the books of the Company on that date.

(w) T. H. Ingwersen, H. C. Carr and W. B. Traynor, being a majority of the board of directors, with C. A. Peacock, secretary, of the Andalusia Packing Co., all being of-

ficers or employes of respondent, and acting, at the same time, as directors and secretary of said Andalusia Packing Co., purported to meet at the office of said company in Chicago, March 30, 1918, and at the instance and for the benefit of respondent, beneficial owners of all the stock of said Andalusia Packing Co., declared a dividend of $97,276.14; and at the same time, acting in the above dual capacity, said persons purported to accept an offer "to purchase all the property and business of this company," and purported to authorize and instruct "the proper officers of this company" "to convey, assign and transfer to said Swift & Co. all of the property and business of this company by proper instruments of conveyance." Such instruments of transfer were executed, and each bears date, both as to execution and acknowledgment, of November 30, 1918, (Com's. Exs. 187 and 188). Respondent directed the record of said alleged meeting of November 30, 1918, and the instruments of transfer designated, to be prepared by respondent's general counsel, in a letter dater April 9, 1918, and such record and such instrument were in fact executed between April 8, 1918, and April 23, 1918, the date when the executed instruments were returned to respondent's counsel by respondent's secretary.

(y) By a certain deed in writing, and a certain other instrument in writing, both dated March 30, 1918, said Andalusia Packing Company, through its President, T. H. Ingwerson, and its Secretary, C. A. Peacock, transferred to respondent, Swift & Company, respectively, the real estate at Andalusia, Alabama, of said Andalusia Packing Company, and the business and physical assets of said Andalusia Packing Company, wherever situated. Said written instrument of sale, and deed, were without consideration (other than nominal) moving from respondent to said Andalusia Packing Company corporation, and they constituted and were, mere paper transfers to respondent in the carrying out of the intent and purpose of respondent, following, and as a result of respondent's prior illegal acquisition of the capital stock of the said Andalusia Packing Company.

88 Paragraph Six: That said acquisition by purchase of the capital stock of said Moultrie Packing Company and of said Andalusia Packing Company by respondent, Swift & Company, as set forth in Paragraphs Four and Five hereof, respectively, was fully consummated, and full control of the business and property of said Moultrie Packing Company and of said Andalusia Packing Company by respon-

dent was secured by means of said acquisition of stock before the physical assets of said Moultrie Packing Company and said Andalusia Packing Company, as such, were nominally transferred to respondent.

Paragraph Seven: That:

(a) Prior to the acquisition of said stock of said Moultrie Packing Company and said Andalusia Packing Company by respondent, as set forth in Paragraphs Four and Five hereof, said corporations whose stock was so acquired were in direct competition with each other and with the respondent, in the sale of meat and meat products in interstate commerce; but within a few weeks after said acquisition of said stock, said competition of said Moultrie Packing Company, and said competition of Andalusia Packing Company, with each other and with respondent wholly ceased and has not since been resumed. Instances of said competition may be noted as follows:

(b) Beginning late in 1914, or early in 1915, said Moultrie Packing Company sold its said meats and meat products in Atlanta, Georgia, and many other cities and towns in the State of Georgia, to the same dealers to whom the respondent at the same time sold or endeavored to sell similar products shipped into Atlanta and other cities and towns in the State of Georgia, in interstate commerce, and sold and offered for sale in interstate commerce in said cities and towns.

(c) M. M. Stanaland, for many months (18 months or more), prior to October 22, 1917, was a broker in meats and meat products whose principal place of business was in Atlanta, Georgia, and who represented said Moultrie Packing Company. Prior to August, 1917, said Stanaland sold and delivered in Atlanta, Georgia, and the neighborhood thereof, meats and meat products manufactured by said Moultrie Packing Company, aggregating many scores of thousands of dollars in value, and estimated in volume at one to three carloads per week; and in such sale of said products, prior to August, 1917, met from day to day, in competition, the salesmen of said respondent, who were selling or endeavoring to sell similar products of respondent, shipped into Atlanta in interstate commerce.

(d) Immediately following the taking over of the stock and control of said Moultrie Packing Company, by respondent, said Stanaland experienced difficulties in securing from the said Moultrie Packing Company his usual supplies of

meat and meat products, and prices of said meat and of some of said products were gradually advanced by said Moultrie Packing Company under the direction of respondent, so as to make it more and more difficult for said Stanaland to market said meat and meat products to his customers; such prices so fixed by said Moultrie Packing Company for said Stanaland being at times higher than the prices at which the branch house of respondent in Atlanta was permitted at the same time to sell identical products in the same territory.

On October 22, 1917, the account of said Moultrie Packing Company was entirely withdrawn from said Stanaland, and said Stanaland ceased to be a broker for said Moultrie Packing Company, and competition between said Moultrie Packing Company and respondent, which had been nominal since July, 1917, wholly ceased in Atlanta and in the neighborhood thereof immediately upon said Stanaland's dismissal.

89

(e) Before said respondent had acquired the stock of said Moultrie Packing Company, the sale of meat and meat products of said Moultrie Packing Company by said Stanaland tended to lower the prices secured by respondent for similar products in Atlanta and in the neighborhood thereof, since the said Stanaland, for said Moultrie Packing Company, sold largely what is known as "soft pork", or peanut-fed pork, which could be produced and sold at a lower price in that locality than could the Western, or corn-fed pork, shipped long distances and sold by respondent at that time in that territory. Said peanut-fed pork was generally considered of a lower grade than Western, or corn-fed pork, and was sold in the market at a differential of one to five cents, or an average differential of about 2c a pound lower than Western pork; at the same time, its flavor was liked by consumers in that locality, and said peanut-fed pork was in such active demand that it was difficult to secure a supply sufficient to meet such demand.

(f) From and after September, 1916, and up to July 24, 1917, J. W. Clarke Company, then brokers in Atlanta, Georgia, dealing in meat and meat products, sold as brokers the products of said Andalusia Packing Company, in Atlanta and the neighborhood thereof, to the same dealers to whom respondent sold or endeavored to sell similar products, also shipped to and sold in Atlanta in interstate commerce; and said Andalusia Packing Company, through its broker, J. W. Clarke Company, was likewise, at this time, in competition

with said Moultrie Packing Company in Atlanta and the neighborhood thereof, in the sale of meats and meat products. Said J. W. Clarke Company, during the period from September, 1916, to July 24, 1917, sold in Atlanta and the neighborhood thereof, meats and meat products, largely soft, or peanut-fed pork products, and shipped to them in interstate commerce by said Andalusia Packing Company, of the value of many thousands of dollars, estimated at $4,000 or more per week. Said pork was usually sold at a differential below Western, or corn-fed pork, but was in active demand in said territory.

(g) Immediately after respondent had acquired the stock of said Andalusia Packing Company, and assumed, through the acquisition of said stock, control thereof, said J. W. Clarke Company found it increasingly difficult to get meat and meat products from said Andalusia Packing Company to fill its orders; prices of said products were advanced by said Andalusia Packing Company, at the instance of respondent, so as to make their sale increasingly difficult, and said prices were at times higher than the prices at which the branch house of respondent in Atlanta was permitted to sell identical products in the same territory.

(h) Immediately after the acquisition by respondent of the capital stock of said Andalusia Packing Company, July 24, 1917, the Manager in charge of said Andalusia Packing Company for respondent, adopted the policy of selling the products of said Andalusia Packing Company through respondent's branch houses in Atlanta and elsewhere. As a consequence, said J. W. Clarke Company was gradually eliminated from the business, and about October, 1917,
90 was cut off from shipments by and receipts from said Andalusia Packing Company. Competition of said Andalusia Packing Company with respondent and with said Moultrie Packing Company in Atlanta, Georgia, and the neighborhood thereof, which was nominal after July 24, 1917, wholly ceased about October, 1917.

(i) Between October, 1916, and July, 1917, said Moultrie Packing Company sold and shipped its meat and meat products in interstate commerce, to Jacksonville, Florida, in competition with respondent. Such sales were made through Samuel T. Smith, broker for said Moultrie Packing Company, who sold in Jacksonville, Florida, and the neighborhood thereof, to the same dealers to whom respondent sold or endeavored to sell similar products at the same time, in inter-

state commerce. The sales of said Samuel T. Smith of the products of said Moultrie Packing Company had amounted, during the period he so represented said Company in Jacksonville, to many thousands of dollars, and estimated at a volume of two carloads of said products per week.

(j) After respondent had acquired the capital stock of said Moultrie Packing Company, said Smith found it increasingly difficult to get the meats and meat products of said Moultrie Packing Company at prices at which they could be sold in Jacksonville and the neighborhood thereof, and, at times, respondent, through its branch house in Jacksonville, sold said products at prices substantially lower than said Smith was permitted to make to his customers. After July, 1917, said Smith sold but nominal amounts of said products of said Moultrie Packing Company in Jacksonville and the neighborhood thereof, and in September, 1917, his sales of said products wholly ceased and he ceased to represent said Moultrie Packing Company in the sale of its products in said territory. Thereafter, the products of said Moultrie Packing Company, when sold at all in Jacksonville and the neighborhood thereof, were sold only through the branch house of respondent, and competition between respondent and said Moultrie Packing Company in the sale of meat products wholly ceased after September, 1917, in Jacksonville and the neighborhood thereof.

(k) Between September, 1916, and July 24, 1917, said Andalusia Packing Company sold and shipped its meats and meat products to Birmingham, Alabama, and the neighborhood thereof, to the same dealers to whom, at the same time, respondent sold and endeavored to sell similar products shipped into Birmingham, Alabama, and the neighborhood thereof, in interstate commerce.

(l) During said period, from October, 1916, to July 24, 1917, E. P. Allen & Company, brokers dealing in meats and meat products, represented said Andalusia Packing Company in the sale of its said products in Birmingham and the neighborhood thereof, where said E. P. Allen and his salesmen during said period constantly met in competition salesmen of respondent selling similar products. Said Allen and his salesmen in said period solicited the same customers and sold similar products to the same dealers as respondent. Said E. P. Allen & Company sold during said period such products of said Andalusia Packing Company to the volume of many thousands of dollars, the volume being estimated at two to three carloads a week. Said products were of soft,

or peanut-fed pork and were sold at a differential lower than Western pork, but were in active demand in said territory.

91 (m) After respondent had acquired the capital stock of said Andalusia Packing Company, July 24, 1917, said E. P. Allen & Company found it increasingly difficult to secure the products of said Andalusia Packing Company to supply its customers, and in many instances the prices which said E. P. Allen & Company were instructed to secure for said products by said Andalusia Packing Company were substantially higher than the prices at which the branch house of respondent in Birmingham, Alabama, was permitted to sell the same products in Birmingham and the neighborhood thereof. About the latter part of October, 1917, said Andalusia Packing Company ceased to sell its said products through said E. P. Allen & Company, and thereafter sold said products solely through the branch house or other sales organization of respondent, and competition between said Andalusia Packing Company and respondent, which had been nominal after July 24, 1917, wholly ceased in Birmingham, Alabama, and the neighborhood thereof, as well as elsewhere.

(n) Similar competition between respondent, said Andalusia Packing Company and said Moultrie Packing Company, prior to said acquisition by respondent of the stock of said Andalusia Packing Company and said Moultrie Packing Company, took place in scores of cities and towns in the State of Georgia, Florida and Alabama, and wholly ceased soon after said acquisition of said stock, and before the purchase by respondent of the physical assets, as such, of said Andalusia Packing Company and said Moultrie Packing Company.

Paragraph Eight: For many years prior to the times that said Moultrie Packing Company and said Andalusia Packing Company began business many dealers in meats and meat products, including respondent, offered their products for sale to dealers in the territory in which said Moultrie Packing Company and said Andalusia Packing Company did the bulk of their business—namely, in the States of Georgia, Florida and Alabama. Sale in said territory of said products of said Moultrie Packing Company and said Andalusia Packing Company, from the autumn of 1916 to July, 1917, materially increased competition in said territory in said products, especially in soft or oily pork products. For a time after the acquisition by the respondent of the stock of said Moultrie Packing Company and said Andalusia Pack-

ing Company, there was a substantial lessening of competition in said territory in the sale of said oily pork products, and a complete elimination of competition in said product and other meat and meat products between respondent and said Moultrie Packing Company and said Andalusia Packing Company, and between said Moultrie Packing Company and said Andalusia Packing Company.

Paragraph Eight and A Half: Respondent, in the spring of 1917, decided to enter the southern field in the packing industry, wherein the Moultrie Packing Company and the Andalusia Packing Company were operating, either by building or acquiring a packing plant, after respondent's representatives had reported that at that time, on account of the increasing livestock production, respondent might profitably enter such field. Respondent's said representative had reported adversely to such entry for the previous two years. Respondent, by its acquisition of the capital stock and control of the said two operating competitive concerns, to wit, the Moultrie Packing Company and the Andalusia Packing Company, rather than building a plant of its own, not only eliminated the then existing competition between respondent and the concerns whose capital stocks were acquired, but also
92 eliminated all increasing, prospective and potential competition from such concerns, particularly in the purchase of live stock.

Paragraph Nine: That:

(a) Moultrie Packing Company, in 1914, slaughtered 53 head of cattle of a dressed weight of 24,739 pounds, and 2032 hogs, of an aggregate dressed weight of 200,598 pounds; in 1915, said Company slaughtered 1629 cattle of a dressed weight of 396,748 pounds and 32,658 hogs of a dressed weight of 2,199,441 pounds, in 1916, said Packing Company slaughtered 701 cattle of a dressed weight of 196,333 pounds; and 78,125 hogs of a dressed weight of 7,305,506 pounds; for the first six months of 1917, said Company slaughtered 901 cattle of a dressed weight of 252,280 pounds, and 42,421 hogs of a dressed weight of 3,907,909 pounds; in 1914 said Company produced 20,230 pounds of lard; in 1915, 326,580 pounds; in 1916, 1,171,875 pounds, and for the first six months of 1917, 827,575 pounds. It had ample supply of hogs except in three or four summer months, at times many more than it could handle. Said Company found ready sale for its products and its business was highly profitable and growing rapidly; up to the time that respondent acquired its capital stock it was marketing its product through salesmen and brokers.

(b) Andalusia Packing Company, in 1916 slaughtered 21 cattle of a dressed weight of 6,426 pounds and 31,439 of a dressed weight of 3,065,341 pounds; from January 1, 1917, to May 1, 1917, said Company slaughtered 549 cattle of a live weight of 432,195 pounds and 26,438 hogs of a dressed weight of 2,914,692 pounds. It produced 383,774 pounds of lard in 1916, and 564,293 pounds of lard from January 1, 1917, to May 1, 1917. It had ample supply of livestock, especially hogs, except during three or four summer months. Said Company found a ready sale for its products, and its business was highly profitable and was growing rapidly at the time respondent acquired its capital stock.

(c) Respondent greatly enlarged the capacity of the plant of said Moultrie Packing Company, after having acquired its stock; its slaughter of beef cattle was increased radically, but, except in 1919, its slaughter of hogs at said plant had decreased since the acquisition of the capital stock of said plant by respondent. In the last six months of 1917, at the plant of said Moultrie Packing Company there were slaughtered 2,573 cattle and 26,566 hogs; in 1918, at said plant there were slaughtered 18,008 cattle and 72,666 hogs; in 1919, there were slaughtered at said plant, 10,381 cattle and 103,099 hogs; in 1920, at said plant there were slaughtered 8,378 cattle and 65,281 hogs; in the first six months of 1921, there were slaughtered at said plant, 3,626 cattle and 36,080 hogs.

(d) The respondent somewhat enlarged the capacity of said Andalusia Packing Company plant after having acquired its stock, or at least made some improvements in said plant. The slaughter of beef cattle was greatly increased after respondent had acquired the stock of said Andalusia Packing Company, but its slaughter of hogs at said plant, after such acquisition, decreased as compared with the slaughter of hogs at said plant before such acquisition. In the last five months of 1917, there were slaughtered at the plant of the Andalusia Packing Company, 21,186 cattle and 63,976 hogs; in 1919, there were slaughtered at said plant, 11,759 cattle and 61,676 hogs; and in 1920, there were slaughtered at said plant 8,687 cattle and 39,523 hogs; for the first six
93 months of 1921, there were slaughtered at said plant 4,552 cattle and 29,313 hogs.

(e) Respondent Company, in its various plants, in 1917, slaughtered 2,153,908 cattle, 846,472 calves, 3,162,937 sheep and 7,288,159 hogs; in 1919, the year of its largest production, respondent slaughtered in its various plants, 2,337,124 cattle, 1,231,262 calves, 4,044,719 sheep and 8,662,824 hogs.

Its production fell off radically in 1920. Respondent is one of the largest two of the meat packers and does business through branches, salesmen and car routes, all over the United States.

(f) In 1919, there were slaughtered in the United States, under federal inspection, as reported officially; 10,989,984 cattle, 3,969,019 calves, 12,691,117 sheep and lambs, 87,380 goats, and 41,611,830 hogs; so that respondent slaughtered more than one-fifth of the cattle and hogs and about one-third of the calves and sheep slaughtered under federal inspection in the year 1919.

Paragraph Ten: That the acquisition of said capital stock of said Moultrie Packing Company and of said Andalusia Packing Company by respondent, as described in Paragraphs Four and Five hereof, was not solely for investment, nor acquired in forming a subsidiary corporation under the permissive provisions prescribed in Section 7 of the Act of Congress approved Octobed 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes."

Paragraph Eleven: That Section 7 of the Act of Congress approved October 15, 1914, entitled, "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," is and provides in part as follows:

"That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or share capital of another corporation engaged also in commerce, where the effect of such acquisition may be to substantially lessen competition between the corporation making the acquisition, or to restrain such commerce in any section or community, or tend to create a monopoly in any line of commerce."

Paragraph Twelve: That the acquisition and continued control and ownership of the capital stock of said Moultrie Packing Company corporation, and of said Andalusia Packing Company corporation, by respondent, and the subsequent continued control and operation of the packing plants and businesses of said corporations by respondent, and the nominal transfers to respondent of the physical assets and businesses of said corporation, following respondent's acquisition of such capital stock and control of said corporations, and the total suppression of competition between the Moultrie Packing Company and the Andalusia Packing Company, and the total suppression of competition between respondent

and each of said named companies, resulting from such control and operation by respondent under the conditions and circumstances set forth in the foregoing Findings as to the Facts, were and are in violation of the provisions of Section 7 of an Act of Congress approved October 15, 1914, entitled,

"An Act to supplement existing laws against unlawful
94 restraints and monopolies, and for other purposes"; and

were and are unfair methods of competition within the meaning of Section 5 of an Act of Congress approved September 26, 1914, entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

Conclusion.

The acquisition and continued control and ownership of the capital stock of said Moultrie Packing Company corporation, and of said Andalusia Packing Company corporation, by respondent, and the subsequent continued control and operation of the packing plants and businesses of said corporations by respondent, and the nominal transfers to respondent of the physical assets and businesses, following respondent's acquisition of such capital stock and control of said corporations, and the total suppression of competition between the Moultrie Packing Company and the Andalusia Packing Company, and the total suppression of competition between respondent and each of said named companies, resulting from such control and operation by respondent, under the conditions and circumstances set forth in the foregoing Findings as to the Facts, were and are in violation of the provisions of Section 7, of an Act of Congress approved October 15, 1914, entitled, "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes"; and were and are unfair methods of competition within the meaning of Section 5 of an Act of Congress approved September 26, 1914, entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

By the Commission:

(Signed) NELSON B. GASKILL,
NELSON B. GASKILL,
(Seal) *Chairman.*

Dated this 3rd day of August, A. D., 1922.

Attest:

(signed) OTIS B. JOHNSON
OTIS B. JOHNSON,
Acting Secretary.

95 UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3d day of August, A. D., 1922.

Present:

Nelson B. Gaskill, Chairman,
Victor Murdock,
John F. Nugent,
Huston Thompson,
Vernon W. Van Fleet,
Commissioners.

Federal Trade Commission
vs.
Swift and Company. } Docket No. 453

ORDER.

The Federal Trade Commission having issued and served its complaint herein, and respondent, Swift & Company, having entered its appearance by its attorneys, Messrs. A. N. and Henry Veeder, James M. Sheenan, Esq., and Frank L. Horton, Esq., of Chicago, Illinois, duly authorized and empowered to act in the premises, and having filed its answer; and thereafter, hearings in this proceeding having taken place before an Examiner of the Commission; and evidence having been presented before said Examiner on behalf of the Commission and on behalf of respondent; and the presentation of such evidence having been closed, respectively, by the attorneys for the Commission and by the attorneys for the respondent; and thereafter, the attorneys for the Commission and the attorneys for respondent having duly filed their briefs in this proceeding with the Commission, and having fully argued and presented to the Commission the issues in this proceeding, and having submitted said issues for consideration and determination; and the Commission having fully considered the record, and having been fully advised in the premises, has heretofore made and entered its report and its conclusion that respondent has violated the provisions of Section 5 of the Act of

Congress approved September 26, 1914, entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and also the provisions of Section 7 of the Act of Congress approved October 15, 1914, entitled, "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," which said report and findings are hereby referred to and made part hereof.

Now, Therefore, It Is Ordered: That respondent, Swift & Company, within six calendar months from and after the date of the service of a copy of this order upon it, shall:

(1) Cease and desist from further violating Section 7 of the Clayton Act by continuing to own or hold, either directly or indirectly, by itself or by any one for its use and benefit, any of the capital stock of the Moultrie Packing Com-
96 pany and of the Andalusia Packing Company, or either of them, and Cease and Desist from holding, controlling and/or operating, or causing to be held, controlled and/or operated by others for its use and benefit, the former property and business either of the said Moultrie Packing Company or of the said Andalusia Packing Company, which have been held, controlled and operated by respondent and its employes and agents, following and as a result of respondent's unlawful acquisition of the capital stocks of said named corporations; and to that end, respondent shall

(2) So divest itself of all the capital stocks heretofore acquired by respondent, including all the fruits of such acquisitions, in whatever form they now are, whether held by respondent or by any one for its use and benefit, of the Moultrie Packing Company, a corporation, and of the Andalusia Packing Company, a corporation, or either of them, in such manner that there shall not remain to respondent, either directly or indirectly, any of the fruits of said acquisitions, including the control and/or operations of said corporations, or either of them, resulting from such acquisitions and/or holdings of such capital stocks.

(3) In so divesting itself of such capital stocks respondent shall not sell or transfer, either directly or indirectly, any of such capital stocks to any officer, director, stockholder, employe or agent of respondent, or to any person under the control of respondent, or to any partnership or corporation either directly or indirectly owned or controlled by respondent.

(4) Cease and Desist from further engagements in un-

fair methods of competition in violation of an Act of Congress approved September 26, 1914, entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and in so ceasing and desisting, shall Cease and Desist from further suppressing the competition in trade heretofore existing between the Moultrie Packing Company and the Andalusia Packing Company, and between each of said corporations and the respondent, and also Cease and Desist from further holding, owning, controlling and/or operating, directly or indirectly, the plants and businesses of the said Moultrie Packing Company and the Andalusia Packing Company, or either of them, either through direct or indirect ownership and/or control of the capital stock of either said Moultrie Packing Company or said Andalusia Packing Company and/or through the control and/or ownership of the properties, physical assets and businesses of either of said named corporations.

97 It Is Further Ordered, that the said respondent, Swift & Company, shall within ninety (90) days from the date of service of this order, file with the Commission a report setting forth in detail the manner and form in which it has complied with the order of the Commission herein set forth.

By the Commission:

(Signed) OTIS B. JOHNSON,
Acting Secretary.

(Seal)

98 FEDERAL TRADE COMMISSION

Docket No. 453

Section X.

Copy of Resolution of Committion to Modify Findings as to the Facts, and setting date for Hearing thereon,

Copy of Respondent's Objections to Modification of Findings,

Copy of Modified Findings as to the Facts.

lution of mmittee to dify findings as to ts, etc.

99 UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION: ss.

In the Matter of
Federal Trade Commission
vs.
Swift & Company.
} Docket No. 453.

WHEREAS, the Commission heretofore, to wit, on August 3, 1922, made its Report and Findings as to the Facts in the above entitled proceeding; and

Whereas, in the opinion of the Commission, the evidence warants a modification of such Report and Findings as to the Facts; and

Whereas, a transcript of the record in said proceedings has not been filed in the Circuit Court of Appeals as provided by Section 5 of the Federal Trade Commission Act, and therefore the Commission may, upon such notice and in such manner as it shall deem proper, modify any report and findings made or issued by it under the provisions of Section 5 of said Act; therefore,

Be It Resolved: That on the 15th day of November, 1922, at 2:00 o'clock in the afternoon of said day, the Commission will consider the Report and Findings as to the Facts, with the object of modifying said Report and Findings as to the Facts as follows:

By striking out sub-paragraph (c) of paragraph 4 on page 5 of said Report and Findings as to the Facts, and substituting in lieu thereof, the following:

(c) F. A. Hunter, of St. Louis, Missouri, General Manager of respondent Swift & Company, at National Stock Yards, East St. Louis, Illinois, in the early spring of 1917, visited
100 the plant of said Moultrie Packing Company, of Moultrie, Georgia, and introduced himself to said W. C. Vereen, then President of said Moultrie Packing Company, whom he found at said plant. Said Hunter stated that he represented Swift & Company, and asked permission to inspect the plant of said Moultrie Packing Company. He was given such permission and made such inspection.

By striking out sub-paragraph (e) of paragraph 5, on page 11 of said Report and Findings as to the Facts, and substituting in lieu thereof, the following:

(e) Late in May, or early in June, 1917, F. A. Hunter, of St. Louis, General Manager of respondent, Swift & Company, of National Stock Yards, East St. Louis, Illinois, and H. C. Carr, of the live stock-buying and dressed beef department of respondent Swift & Company, visited Andalusia, Alabama, and inspected the plant of said Andalusia Packing Company. They had met President T. E. Henderson, and after the inspection of said plant called upon him in his office in a bank in Andalusia, in which he was also an officer. Live stock and packing-house conditions were discussed, and said Hunter, before leaving, asked said Henderson if he and his associates wanted to sell their plant. Said Henderson replied he had not thought of it, and anticipated that there might be trouble with stockholders if such a sale were attempted. Said Hunter finally told said Henderson that if he and his associates wished to sell said Andalusia plant, to write said Carr at Chicago. Said Henderson replied that he would prefer to put in this way:— "If you gentlemen take a notion that you want to buy this plant, you let me know." That ended the conversation at the time.

By striking out sub-paragraph (w) of Paragraph 5, on page 17 of said Report and Findings as to the Facts, and substituting in lieu thereof, the following:

(w) T. H. Ingwersen, H. C. Carr and W. B. Traynor, being a majority of the board of directors, with C. A. Peacock, secretary, of the Andalusia Packing Company, all being officers or employees of respondent, and acting at the same time as directors and secretary of said Andalusia Packing Co., purported to meet at the office of said company in Chicago, March 30, 1918, and at the instance and for the
101 benefit of respondent, beneficial owners of all the stock of said Andalusia Packing Co., declared a dividend of $97,276.14; and at the same meeting, acting in the above dual capacity, said persons purported to accept an offer "to purchase all the property and business of this company," and purported to authorize and instruct "the proper officers of this company" "to convey, assign and transfer to said Swift & Co. all of the property and business of this company by proper instruments of conveyance." Such instruments of transfer were executed as of, and each bears date, both as to execution and acknowledgment, as of March 30, 1918 (Com's. Ex.s. 187 and 188). Respondent directed the record of said alleged meeting of March 30, 1918, and the instruments of transfer designated, to be prepared by respondent's general

counsel, in a letter dated April, 9, 1918, and April 23, 1918, at the date when the executed instruments were returned to respondent's counsel by respondent's secretary.

Be It Further Resolved, that this Resolution be served upon said respondent by registered mail not later than the 10th day of November, 1922.

By the Commission:

(Signed) OTIS B. JOHNSON,
OTIS B. JOHNSON,
Secretary.

(Seal)

ondent's jections to dification findings to the ts.

102 UNITED STATES OF AMERICA,

BEFORE FEDERAL TRADE COMMISSION: ss.

In the Matter of
Federal Trade Commission
vs.
Swifth & Company.
} Docket No. 453.

Now comes the respondent, Swift & Company, by its attorneys of record and says that the Federal Trade Commission ought not to modify or change its Report upon the facts, conclusion and order hereinbefore entered in the above entitled cause unless such change or modification shall be for the purpose of making void the said order or dismissing said complaint. To any other change or modification respondent objects for the following reasons:

1. That the Commission has heretofore been ordered by the United States Circuit Court of Appeals for the seventh circuit to file in said court a transcript of the record in the above entitled cause, and that under the law the Commission is now without power to change or modify its report upon the facts, its conclusions and order.

2. When liberally construed the complaint is insufficient to show and the evidence does not disclose a violation of either Section 7 of the Clayton Act or Section 5 of the Federal Trade Commission Act.

3. For further reasons the respondent adopts the allegations of its "exceptions to the Examiners report upon the facts, to the Examiners conclusions, and to the Examiners suggested order," to the same extent as though the said allegations were set out at length herein. Said exceptions and suggested report upon the facts, conclusions and orders have

been heretofore filed with the Federal Trade Commission and are set forth at length on pages 68 to 83 both inclusive of respondents brief.

(Signed) ALBERT H. and HENRY VEEDER,
JAMES M. SHEEAN,
FRANK L. HORTON,
Attorneys for Respondent.

103 UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION.

Federal Trade Commission
v.
Swift & Company.
} Docket No. 453.

MODIFIED FINDINGS AS TO THE FACTS.

The Federal Trade Commission having issued and served its complaint herein, wherein it is alleged that it had reason to believe that the above named respondent, Swift & Company, has been and now is using unfair methods of competition in interstate commerce, in violation of Section 5 of An Act of Congress approved September 26, 1914, entitled "An Act To create a Federal Trade Commission, to define its powers and duties, and for other purposes"; and that said respondent, Swift & Company, has been and is violating the provisions of Section 1 of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes"; and that a proceeding by it as to such alleged violation of Section 5 of the Act of September 26, 1914, would be to the interest of the public; and fully stating its charges in that respect; and respondent having entered its appearance by Messrs. Albert H. and Henry Veeder, of Chicago, Illinois, its attorneys, and having duly filed its answer, admitting certain of the allegations of said complaint and denying others, and hearings in said proceeding having taken place before an Examiner of the Commission, and the Commission having offered evidence in support of the charges of said complaint, and respondent having offered evidence in its own defense, and both parties to this proceeding having rested, and the attorneys of both parties having fully ar-

gued the issues in the proceeding, and having presented said issues herein to the Commission for final consideration and determination, and the Commission having duly considered the record herein, and being fully advised in the premises, now makes its report and findings as to the fact and conclusion:

Finding as to the Acts.

Paragraph One: That respondent, Swift & Co., organized in 1885, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located in the City of Chicago, Illinois, and respondent during all of said time has been and now is engaged in the meat-packing industry and trade, including the purchasing and slaughtering of livestock and in the converting and producing of meat and meat products and by-products, and in the sale and
104 shipment and distribution thereof into and through the various States of the United States, the Territories thereof and the District of Columbia, selling, shipping and distributing same through its various branch houses; and respondent, during said period, has been and now is in direct competition with other persons, partnerships and corporations similarly engaged (except as respondent may have been self-restrained by illegal pools, agreements or understandings) and respondent was thus engaged in competition with the Moultrie Packing Co., of Moultrie, Georgia, from about December, 1914, up to the time respondent acquired the capital stock of said company, about June 1, 1917, and respondent was likewise thus engaged in competition with the Andalusia Packing Co., of Andalusia, Alabama, from about May 1916, to the time when respondent acquired the capital stock of the said company, about July 24, 1917.

Paragraph Two: That the Moultrie Packing Company, organized in 1913, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its principal office and place of business in the City of Moultrie, Georgia, and that said Moultrie Packing Co., from about December, 1914, up to about June, 1917, was continuously engaged in the meat-packing industry and trade, including the purchasing and slaughtering of live stock and the converting and preparation therefrom of meat and meat products and by-products, and in the sale, shipment and distribution of said commodities throughout the

State of Georgia, and of a substantial portion of said products, estimated at one-third, from the State of Georgia through and into other States of the United States, and more particularly through and into the States of Florida and Alabama; and in said business of sale, shipment and distribution said Moultrie Packing Company was, prior to June 1, 1917, in direct competition in intereste commerce with respondent and other persons, partnerships and corporations similarly engaged.

Paragraph Three: That the Andalusia Packing Company, organized in October, 1915, is a corporation organized and existing under and by virtue of the laws of the State of Alabama, with its principal office and place of business in the City of Andalusia, Alabama, and said Andalusia Packing Co., from about May or June, 1916, up to about July 24, 1917, was continuously engaged in the meat-packing industry and trade, including the purchasing and slaughtering of livestock and the converting and preparation therefrom of meat and meat products and by-products, and in the sale, shipment and distribution of said commodities throughout the State of Alabama and of a substantial portion of said products, estimated at one-fourth, from the State of Alabama through and into other States of the United States, and, more particularly, through the States of Georgia and Florida; and in said business of sale, shipment and distribution, said Andalusia Packing Co. was, prior to about July 24, 1917, in direct competition in interstate commerce with respondent and other persons, partnerships and corporations similarly engaged.

Paragraph Four: That:

(a) Between March 15, and August 2, 1917, respondent, Swift & Company, acquired by purchase, the entire then outstanding capital stock of said Moultrie Packing Company, and caused such capital stock, except twenty shares thereof not then delivered, to be issued in the names of certain of its officers and employees, and to be held for the use and
105 benefit of said respondent. In the course of the months of June, July and August, 1917, respondent, through said stock ownership, assumed full possession and control of the plant, assets, and business of said Moultrie Packing Company, and at all times thereafter retained and exercised such control. Details of said acquisition and control are substantially as follows:

(b) Moultrie Packing Company, a corporation mentioned

in Paragraph Two hereof, was organized under the laws of the State of Georgia, on or about October 8, 1913, by W. C. Vereen and other persons in and about the City of Moultrie, in said State, for the purpose of conducting a general packing business, dealing in livestock, meats of all kinds, cold storage of meats, vegetables and other articles, and in the manufacturing of ice. Said Moultrie Packing Company had an authorized capital stock of $300,000.00, divided into shares of $100 each. A plant was constructed at the City of Moultrie, Georgia, and was opened for business in the Autumn of 1914, and from about December, 1914, up to about June 1, 1917, said Moultrie Packing Company continued in increasing volume its operations of purchasing and slaughtering live stock and in preparing and converting of meat and meat products and by-products therefrom, and in their general sale and distribution. In the course of the next year it secured more live stock that it could slaughter, and extended the market for its products to Atlanta, Georgia; Jacksonville, Florida; Birmingham, Alabama, and to other cities and to other States. Sales by said Moultrie Packing Company were made chiefly through brokers, although it also employed salesmen.

(c) F. A. Hunter, of St. Louis, Missouri, General Manager of respondent, Swift & Company, at National Stock Yards, East St. Louis, Illinois, in the early spring of 1917, visited the plant of said Moultrie Packing Company, of Moultrie, Georgia, and introduced himself to said W. C. Vereen, then President of said Moultrie Packing Company, whom he found at said plant. Said Hunter stated that he represented Swift & Company, and asked permission to inspect the plant of said Moultrie Packing Company. He was given such permission and made such inspection.

(d) Several weeks later, said Hunter called upon said Vereen in the Piedmont Hotel in Atlanta, Georgia. At this time said Hunter asked said Vereen if he would not sell the Moultrie Packing Company. Said Hunter said he would try to make the sale of said Company to Swift & Company.

(e) Several weeks later, May 14, 1917, said Hunter called said Vereen on long distance telephone from Montgomery, Alabama, and made an appointment for said Vereen to meet Louis F. Swift, an Executive Officer of Swift & Company, respondent herein, at Jacksonville, Florida, the next morning. Said Vereen and said Swift met at the Windsor Hotel in Jacksonville, May 15, 1917. Said Swift and said Vereen talked over the business of said Moultrie Packing Company,

and the source of its supply of live stock, referring to a map as they did so. Said Vereen told said Swift that said Vereen would sell his stock in the Moultrie Packing Company for $150 a share, and could probably get all the other stock of said Moultrie Packing Company for the same price. Said Swift offered said Vereen $125 a share for said stock of said Moultrie Packing Company and said Vereen objected
106 that that was not enough, basing his objection upon the earnings of said Moultrie Packing Company. Then said Swift remarked:

"Don't you believe, if I were to go to Albany or to Valdosta, Georgia, and tell them I would put up a packing plant there twice as large as the Moultrie plant, that they would give me $50,000 or $75,000?"

Mr. Vereen stated in his testimony:

"I thought a moment, and I said, 'Yes, Mr. Swift, I believe they would'; for the reason that I knew that Albany and Valdosta at that time, were very, very anxious to have a packing plant." (Testimony of W. C. Vereen, Transcript p. 553.)

There was some further discussion and said Vereen agreed to give said Swift an option until June 1, 1917, on the stock that he owned personally in said Moultrie Packing Company, and to buy up for him at the same price the stock held by others. An option of the above tenor was given at that time by the said Vereen to said Swift, the price of said stock being named as $125 per share. Said Swift reduced said option to writing and it was signed in duplicate at once by said Vereen, and dated May 15, 1917. The option as prepared by said Swift was taken in the name of said F. A. Hunter, and recited that outstanding stock was about $97,000 par, and that the books of the Company showed a profit of about $90,000. Said Swift told said Vereen that if any correspondence became necessary, to address Mr. H. J. Nelson, Swift & Company, Union Stock Yards, Chicago.

(f) Said Vereen, on his return to Moultrie, called a meeting of the Board of Directors of said Moultrie Packing Company, told them of his conversation with said Swift, and they agreed to accept $125 per share for their holdings of stock in said Moultrie Packing Company, and to take up with all stockholders of said Moultrie Packing Company the matter of getting them to sell their stock at the same price. Said option expired June 1, 1917, and was extended by said Vereen until July 1, 1917. Said Vereen succeeded, early in June,

1917, in getting all of the outstanding capital stock of Moultrie Packing Company, 966 shares in all, except 20 shares which at that time was located but not available for various reasons, and sent said stock to the Fort Dearborn National Bank, at Chicago, with instructions to said bank to deliver said stock to Swift & Company, respondent herein, on payment for it of $125 a share. The stock was afterwards paid for and delivered to respondent, Swift & Company, and the 20 additional shares were later secured and delivered to respondent, Swift & Company.

(g) A financial statement of said Moultrie Packing Company, submitted to its president by its auditor, May 15, 1917, showed net profits of said Company from January 1, 1917, to April 30, 1917, of $62,843.76 and a surplus of $92,170.79.

(h) Prior to May 28, 1917, respondent, Swift & Company, after a meeting of certain of its officers and employes in its Board room in Chicago, acting for and on behalf of re-
107 spondent, caused O. C. E. Matthies, its Auditor, to proceed to Moultrie, Georgia, and make an audit of the books of said Moultrie Packing Company. This audit as reported June 1, 1917, to H. J. Nelson, an officer of Swift & Company, respondent, set forth among other things, that "As a result of this investigation, I am of the firm conviction that the capital stock of this concern is worth $165 per share as a going concern, and recommend its purchase . . ."

(i) As of the same date, W. A. Burnett was also sent to Moultrie, Georgia, by respondent, to make a physical inspection of the plant of said Moultrie Packing Company. He reported thereafter upon its condition and the estimated cost of changes which were recommended. His report indicated that the physical plant was worth about $202,500.

(j) In June, 1917, Swift & Company sent H. C. Wallow, its employe at Chicago, to take charge of the office of said Moultrie Packing Company, and sent F. A. Luchsinger to "watch things" and work with Mr. Brooks, then Manager of said Moultrie Packing Company. Mr. Luchsinger was to be the representative of the respondent, Swift & Company, at said plant. Mr. Brooks remained with said Moultrie Packing Company until about November 1, 1917, but after the coming to Moultrie of said Luchsinger Mr. Brooks was under the direction of respondent, Swift & Company, in his activities at said plant.

(k) August 13, 1917, stockholders of said Moultrie Packing Company held an adjourned annual meeting at Moultrie,

Georgia, at which said W. C. Warren and said C. H. Wallow, each credited with five shares of the capital stock of said Moultrie Packing Company, were present in person, and W B. Traynor, C. A. Peacock, J. J. McGuire, T. H. Ingwersen, H. C. Carr and E. B. Kixmiller were represented by proxies. In all, 798 shares were there represented. All stockholders represented or present at said meeting, except said W. C. Vereen, were then officers or employes of respondent. Swift & Company, and held the stock of said Moultrie Packing Company for the use and benefit of said respondent. Said W. C. Vereen was given five shares of stock, to qualify him as an officer and director, which stock he at once upon securing endorsed in blank and returned to Swift & Company. At said stockholders' meeting of August 13, 1917, T. H. Ingwersen, F. J. King, H. C. Carr, A. B. Kixmiller, O. C. E. Matthies and F. A. Luchsinger, all employes or officers of Swift & Company, were elected directors of said Moultrie Packing Company. W. C. Vereen, then without pecuniary interest in said Moultrie Packing Company, was also elected a director. Said stockholders, at said meeting of August 13th, 1917, also elected the following officers;

T. H. Ingwersen, president; O. C. E. Matthies, vice president; C. H. Wallow, secretary and treasurer; C. A. Peacock, assistant secretary; J. J. McGuire, assistant treasurer. All of said officers were then officers or employes of Swift & Company.

(l) November 3, 1917, T. H. Ingwersen, F. J. King, H. C. Carr, E. B. Kixmiller, and O. C. E. Matthies, all then officers or employes of respondent, met in Chicago as directors of said Moultrie Packing Company; C. A. Peacock, also an officer of respondent, was also present and acted as Secretary and said officers and employes, acting at the same time as such directors of said Moultrie Packing Company, at the
108 instance and direction of respondent, at said meeting of November 3, 1917, adopted a resolution to sell all the business and property of said Moultrie Packing Company to Swift & Company, of Illinois, respondent herein, authorizing and directing the President to carry such sale into effect, and providing that the Company be wound up and liquidated and its assets be distributed among the stockholders in proportion to their holdings.

(m) At a special meeting of stockholders held at Moultrie, Georgia, January 5, 1918, at which F. A. Luchsinger, W. C. Vereen and C. H. Wallow were present in person, and T. H.

Ingwersen, F. J. King, H. C. Carr, E. B. Kixmiller, O. C. E. Matthies, W. B. Traynor, C. A. Peacock and J. J. McGuire were represented by proxy, said action of said Board of Directors, at its meeting November 3, 1917, selling the property and business of the said Moultrie Packing Company was, at the instance and direction of the respondent, confirmed, and said Moultrie Packing Company was ordered wound up and liquidated, and its assets distributed to stockholders in proportion to their holdings. At said stockholders' meeting of January 5, 1918, 956 shares of the capital stock of said Moultrie Packing Company were represented, being all the outstanding stock except ten shares. All stockholders at said meeting of January 5, 1918, were officers and employes of respondent, Swift & Company, except the said W. C. Vereen, who had no pecuniary interest in the five shares of stock which he then held.

(n) A written instrument, dated November 3, 1917, evidences the sale by said Moultrie Packing Company to Swift & Company, of Illinois, respondent herein, of its entire business and plant except real estate, and a deed dated November 24, 1917, evidences the sale by said Moultrie Packing Company of its real estate at Moultrie, Georgia, to Swift & Company. Said written instrument and deed were without consideration (other than nominal) moving to said Moultrie Packing Company Corporation, and constituted and were mere paper transfers to respondent in the carrying out of the intent and purpose of respondent, following, and as a result of, respondent's prior illegal acquisition of the capital stock of the said Moultrie Packing Company.

Paragraph Five: That:

(a) On or about July 24, 1917, respondent, Swift & Company, acquired by purchase the entire outstanding capital stock of said Andalusia Packing Company, and caused said capital stock to be reissued to numerous persons who were then officers or employes of respondent, which persons held such stock for the use and benefit of respondent. In the month of August, 1917, respondent, through such stock ownership, assumed complete possession and control of the plant, assets and business of said Andalusia Packing Company, and at all times thereafter retained said possession and control. Details of such acquisition and control are in substance as follows:

(b) On or about October 8, 1915, T. E. Henderson, and other residents of Andalusia, Alabama, and in the neighbor-

hood thereof, organized said Andalusia Packing Company, under the laws of the State of Alabama, with power to build, operate and maintain a packing house or packing plant or cold storage buildings and to engage in, carry on and operate a general packing-house and cold-storage business. Said Andalusia Packing Company had an authorized capital stock of $250,000, all of one class, divided into 5,000 shares of
109 $50 each, par value. Said stock was sold to about 150 to 200 subscribers in the City of Andalusia and the neighborhood thereof, until about 2665 shares of such stock were outstanding.

(c) After the organization of said Andalusia Packing Company, and prior to July, 1916, said corporation constructed a packing plant in said City of Andalusia.

(d) About June, 1916, said plant began the operations of purchasing and slaughtering livestock and conducting a general packing and cold storage business, although the volume of said business was not large until October, 1916, and thereafter. Said Andalusia Packing Company secured its livestock principally in the surrounding territory, and found a market for its goods in the State of Alabama, Georgia and Florida, and other States. Its principal output was pork and pork products. Its business grew rapidly and it found a ready and profitable market for its products.

(e) Late in May, or early in June, 1917, F. A. Hunter, of St. Louis, General Manager of respondent, Swift & Company, of National Stock Yards, East St. Louis, Illinois, and H. C. Carr, of the livestock-buying and dressed beef department of respondent, Swift & Company, visited Andalusia, Alabama, and inspected the plant of said Andalusia Packing Company. They had met President T. E. Henderson, and after the inspection of said plant, called upon him at his office in a bank in Andalusia, in which he was also an officer. Livestock and packing-house conditions were discussed, and said Hunter, before leaving, asked said Henderson if he and his associates wanted to sell their plant. Said Henderson replied that he had not thought of it, and anticipated that there might be trouble with stockholders if such a sale were attempted. Said Hunter finally told said Henderson that if he and his associates wished to sell said Andalusia plant, to write said Carr at Chicago. Said Henderson replied that he would prefer to put it in this way: "If you gentlemen take a notion that you want to buy this plant, you let me know." That ended the conversation at the time.

(f) Ten days or two weeks thereafter, said Carr wrote said Henderson a letter concerning the purchase of said Andalusia Packing Company plant, and said Henderson replied by telegram, dated June 5, 1917, advising said Carr to send a representative to "discuss matter." Said Carr wired said Henderson, June 6, 1917, that he would be in Andalusia June 8, 1917, and said Henderson by wire made an appointment with said Carr at said Henderson's office in Andalusia on that date.

(g) Said Carr kept said appointment, meeting said Henderson at Andalusia, June 8, 1917, and also meeting A. C. Darling, a stockholder, and then Secretary of said Andalusia Packing Company. As a result, said Henderson and said Darling gave said Carr an agreement in writing, running to H. C. Carr, "for Swift and Company," amounting to a sort of option at $75 per share, par value $50, until June 27, 1917, upon the capital stock held individually by said Henderson, and said Darling, in said Andalusia Packing Company, being 144 shares owned by said Darling and 130 shares owned by said Henderson. Said Darling and said Henderson agreed, also, to use their best efforts toward buying the remaining shares of stock in said Andalusia Packing Company at $75 per share, for respondent. In the event of their failing
110 to secure the other stock, the option upon their own stock was not to bind them.

(h) Telegrams were exchanged thereafter between said Carr and said Henderson, resulting in a telegraphic confirmation by said Henderson, June 26, 1917, of the sale of said 2665 shares of the capital stock of said Andalusia Packing Company, at $70 a share. The facts developed in this proceeding do not fully reveal the reason why the price for said capital stock was finally fixed at $70, rather than $75, per share, the price named in said option, but there were some indications that respondent let it be known to said Henderson and said Darling that an alternative proposition was then being considered by respondent of establishing a packing plant in Montgomery, Alabama. Said Carr and said Henderson also corresponded as to details of such sale, such as the assumption of debts of said Andalusia Packing Company by respondent; in relation to outstanding accounts; inventory files and other details, having exchanged letters June 28 and July 2 and 9, 1917.

(i) Respondent, Swift & Company, sent its attorney, R. E. Fisher, to Andalusia, Alabama, prior to July 11, 1917, and said attorney examined the corporate records of said Anda-

lusia Packing Company and the titles to its properties, and reported favorably by telegram to Swift & Company's attorneys in Chicago, July 11, 1917, and to Louis F. Swift, President of respondent in Chicago, by letter of July 14, 1917. Respondent, Swift & Company, also sent its auditor, O. C. E. Matthies, to Andalusia, who checked up inventories and accounts and made a report thereon; and the construction department of respondent inspected and reported upon the plant of said Andalusia Packing Company. All these matters are summarized in a memorandum dated July 20, 1917, signed by said Carr and addressed by initials to several officers of respondent. At this time said Andalusia Packing Company showed a surplus of $62,724.32, as a result of operations up to May 1, 1917.

(j) Certain agreements of guarantee dated July 24, 1917, fixing definitely outstanding notes of said Andalusia Packing Company, and certifying that the shares of capital stock sold were the only shares outstanding, were made by said Henderson and said Darling with the officers of respondent, Swift & Company.

(k) Assignments in blank of certificates covering all the shares of capital stock of said Andalusia Packing Company then outstanding were secured from all the stockholders by said Henderson and Darling, in the course of a few weeks following their giving of an option on their capital stock to respondent.

(l) After all said stock had been thus secured, said Henderson and said Darling proceeded with the certificates thereof to Chicago, and on July 24, 1917, said certificates of said stock were delivered by said Henderson and Darling in the Directors' room of respondent in Chicago, assigned in blank, to a representative of respondent, Swift & Company. Said H. C. Carr, T. H. Ingwersen and L. A. Carton, of respondent, being present at the time.

(m) Respondent, Swift & Company, by its check, paid said Henderson $186,550 for said 2665 shares of capital stock of said Andalusia Packing Company, and said payment
111 was entered in the investment ledgers of respondent, Swift & Company.

(n) Said Swift & Company sent to Andalusia, Alabama, to take control of the business and property of said Andalusia Packing Company, about July 16, 1917, G. D. Rogers and C. B. Colt, both then employes of respondent, and said Rogers and said Colt, immediately upon the acquisition of said stock by respondent, July 24, 1917, assumed such con-

trol on behalf of respondent. T. G. Conner, former superintendent of said plant at Andalusia, remained in the employ of said Andalusia Packing Company until about November, 1917, but during that time worked under the direction of respondent.

(o) While in said Directors' room, said Henderson, as President, and said Darling, as Secretary, of said Andalusia Packing Company, signed new certificates of stock in said Andalusia Packing Company to T. H. Ingwersen, for 820 shares; to G. D. Rogers, for 100 shares, to H. C. Carr for 820 shares, to W. B. Traynor for 825 shares, to T. E. Henderson for 100 shares—being in all 2665 shares, the total capital stock of said Andalusia Packing Company then outstanding. All persons to whom said stock was then so assigned were then officers or employes of respondent, except said T. E. Henderson, and said Henderson immediately assigned his said certificates of stock in blank and returned it to a representative of Swift & Company, respondent. The stock was then placed nominally in the name of said Henderson, to qualify him as a director and as Vice President of said Andalusia Packing Company, at the request of said Carr, of respondent, Swift & Company.

(p) T. E. Henderson, T. H. Ingwersen and G. D. Rogers, represented by proxy to H. C. Carr; H. C. Carr and W. C. Traynor, holding 2665 shares of stock of said Andalusia Packing Company, being all of said stock then outstanding, met at the Northeast corner of Exchange and Packers Avenues, Chicago, July 24, 1917, and amended the by-laws of said Andalusia Packing Company as to the places at which corporate business of said Andalusia Packing Company might thereafter be transacted, and as to other points. Said Henderson, who has secured in advance resignations of officers and directors of said Andalusia Packing Company in office before said stock had been acquired by respondent, presented such resignations at said meeting; said resignations were accepted and the following directors were elected: W. B. Traynor, T. H. Ingwersen, G. D. Rogers, H. C. Carr—all officers or employes of respondent. Said Henderson was permitted to remain a director, at the request of said Carr.

(q) Said directors held a special meeting, at the same place, immediately after said stockholders' meeting, all except said Rogers being present, and after having accepted the resignation of the former officers of said Andalusia Packing Company, elected the following officers:—T. H. Ingwer-

sen, president; T. E. Henderson, First Vice President; C. A. Peacock, Secretary; C. M. Williamson, Treasurer, and J. J. McGuire, Assistant Treasurer—all of said officers so elected being the officers or employes of respondent, except said Henderson, who accepted his office at the request of said Carr, of respondent, Swift & Company. It was resolved by said directors that said G. D. Rogers should thereafter countersign all checks of said Andalusia Packing Company drawn against its funds in bank, and C. B. Colt, also an employe of respondent, was made statutory agent of said corporation in Alabama.

112 (r) At a special meeting of the Board of Directors of said Andalusia Packing Company, held at Union Stock Yards, Chicago, August 7, 1917, C. M. Williamson, as Treasurer, was authorized to sign checks against the funds in bank of said corporation, and said checks were to be countersigned by said G. D. Rogers.

(s) At a special meeting of the directors of said Andalusia Packing Company at Union Stock Yards, Chicago, August 14, 1917, C. B. Colt was elected and designated to succeed to the functions of C. M. Williamson, Treasurer of said corporation.

(t) Stockholders of said Andalusia Packing Company, including said H. C. Carr, W. B. Traynor and T. E. Henderson, representing the capital stock of said corporation to the number of 1745 shares, met at Union Stock Yards, Chicago, in annual meeting, October 8, 1917, and reelected the directors elected July 24, 1917.

(u) T. H. Ingwersen, H. C. Carr and W. B. Traynor, being a majority of the then directors of the Andalusia Packing Co., met October 29, 1917, at Union Stock Yards, Chicago, and reelected the officers of said corporation then holding.

(v) Directors of said Andalusia Packing Company met at Union Stock Yards, Chicago, March 26, 1918, T. H. Ingwersen, W. B. Traynor and H. C. Carr being present, with C. A. Peacock acting as Secretary, and resolved that a dividend of $97,276.14 be declared, payable March 30, 1918, to stockholders of record on the books of the Company on that date.

(w) T. H. Ingwersen, H. C. Carr and W. B. Traynor, being a majority of the board of directors, with C. A. Peacock, secretary, of the Andalusia Packing Company, all being officers or employees of respondent, and acting at the same time, as directors and secretary of said Andalusia Packing Co., purported to meet at the office of said company in Chi-

cago, March 30, 1918, and at the instance and for the benefit of respondent, beneficial owners of all the stock of said Andalusia Packing Co., declared a dividend of $97,276.14; and at the same meeting, acting in the above dual capacity, said persons purported to accept an offer "to purchase all the property and business of this company", and purported to authorize and instruct "the proper officers of this company" "to convey, assign and transfer to said Swift & Co. all of the property and business of this company by proper instruments of conveyance." Such instruments of transfer were executed as of and each bears date, both as to execution and acknowledgment as of March 30, 1918, (Com's. Exs. 187 and 188). Respondent directed the record of said alleged meeting of March 30, 1918, and the instruments of transfer designated, to be prepared by respondent's general counsel, in a letter dated April 9, 1918, and such record and such instrument were in fact executed between April 8, 1918, and April 23, 1918, the date when the executed instruments were returned to respondent's counsel by respondent's secretary.

(y) By a certain deed in writing, and a certain other instrument in writing, both dated March 30, 1918, said Andalusia Packing Company, through its President, T. H. Ingwersen, and its Secretary, C. A. Peacock, transferred
113 to respondent, Swift & Company, respectively, the real estate at Andalusia, Alabama, of said Andalusia Packing Company, and the business and physical assets of said Andalusia Packing Company, wherever situated. Said written instrument of sale, and deed, were without consideration (other than nominal) moving from respondent to said Andalusia Packing Company corporation, and they constituted, and were, mere paper transfers to respondent in the carrying out of the intent and purpose of respondent, following, and as a result of respondent's prior illegal acquisition of the capital stock of the said Andalusia Packing Company.

Paragraph Six: That said acquisition by purchase of the capital stock of said Moultrie Packing Company and of said Andalusia Packing Company by respondent, Swift & Company, as set forth in Paragraphs Four and Five hereof, respectively, was fully consummated, and full control of the business and property of said Moultrie Packing Company and of said Andalusia Packing Company by respondent was secured by means of said acquisition of stock before the physical assets of said Moultrie Packing Company and said Andalusia Packing Company, as such, were nominally transferred to respondent.

Paragraph Seven: That:

(a) Prior to the acquisition of said stock of said Moultrie Packing Company and said Andalusia Packing Company by respondent, as set forth in Paragraphs Four and Five hereof, said corporations whose stock was so acquired were in direct competition with each other and with the respondent, in the sale of meat and meat products in interstate commerce; but within a few weeks after said acquisition of said stock, said competition of said Moultrie Packing Company, and said competition of Andalusia Packing Company, with each other and with respondent wholly ceased and has not since been resumed. Instances of said competition may be noted as follows:

(b) Beginning late in 1914, or early in 1915, said Moultrie Packing Company sold its said meats and meat products in Atlanta, Georgia, and many other cities and towns in the State of Georgia, to the same dealers to whom the respondent at the same time sold or endeavored to sell similar products shipped into Atlanta and said other cities and towns in the State of Georgia, in interstate commerce, and sold and offered for sale in interstate commerce in said cities and towns.

(c) M. M. Stanaland, for many [illegible]as (18 months or more), prior to October 22, 1917, was [illegible]roker in meats and meat products whose principal place of business was in Atlanta, Georgia, and who represented said Moultrie Packing Company. Prior to August, 1917, said Stanaland sold and delivered in Atlanta, Georgia, and the neighborhood thereof, meats and meat products manufactured by said Moultrie Packing Company, aggregating many scores of thousands of dollars in value, and estimated in volume at one to three carloads per week; and in such sale of said products, prior to August, 1917, met from day to day, in competition, the salesmen of said respondent, who were selling or endeavoring to sell similar products, shipped into Atlanta in interstate commerce.

114 (d) Immediately following the taking over of the stock and control of said Moultrie Packing Company, by respondent, said Stanaland experienced difficulties in securing from the said Moultrie Packing Company his usual supplies of meat and meat products, and prices of said meat and of some of said products were gradually advanced by said Moultrie Packing Company under the direction of respondent, so as to make it more and more difficult for said Stanaland to market said meats and meat products to his cus-

tomers; such prices so fixed by said Moultrie Packing Company for said Stanaland being at times higher than the prices at which the branch house of respondent in Atlanta was permitted at the same time to sell identical products in the same territory. On October 22, 1917, the account of said Moultrie Packing Company was entirely withdrawn from said Stanaland, and said Stanaland ceased to be a broker for said Moultrie Packing Company, and competition between said Moultrie Packing and respondent, which had been nominal since July, 1917, wholly ceased in Atlanta and in the neighborhood thereof immediately upon said Stanaland's dismissal.

(e) Before said respondent had acquired the stock of said Moultrie Packing Company, the sale of meat and meat products of said Moultrie Packing Company by said Stanaland tended to lower the prices secured by respondent for similar products in Atlanta and in the neighborhood thereof, since the said Stanaland, for said Moultrie Packing Company, sold largely what is known as "soft pork," or peanut-fed pork, which could be produced and sold at a lower price in that locality than could the Western, or corn-fed pork, shipped long distances and sold by respondent at that time in that territory. Said peanut-fed pork was generally considered of a lower grade than Western, or corn-fed pork, and was sold in that market at a differential of one to five cents, or an average differential of about 2c a pound lower than Western pork; at the same time its flavor was liked by consumers in that locality, and said peanut-fed pork was in such active demand that it was difficult to secure a supply sufficient to meet such demand.

(f) From and after September, 1916, and up to July 24, 1917, J. W. Clarke Company, then brokers in Atlanta, Georgia, dealing in meat and meat products, sold as brokers the products of said Andalusia Packing Company, in Atlanta and the neighborhood thereof, to the same dealers to whom respondent sold or endeavored to sell similar products, also shipped to and sold in Atlanta in interstate commerce; and said Andalusia Packing Company, through its broker, J. W. Clarke Company, was likewise, at this time, in competition with said Moultrie Packing Company in Atlanta and the neighboarhood thereof, in the sale of meats and meat products. Said J. W. Clarke Company, during the period from September, 1916, to July 24, 1917, sold in Atlanta and the neighborhood thereof, meats and meat products, largely soft, or peanut-fed pork products, and shipped to them in

interstate commerce by said Andalusia Packing Company, of the value of many thousands of dollars, estimated at $4,000 or more per week. Said pork was usually sold at a differential below Western, or corn-fed pork, but was in active demand in said territory.

(g) Immediately after respondent had acquired the stock of said Andalusia Packing Company, and assumed, through the acquisition of said stock, control thereof, said J. W. Clarke Company found it increasingly difficult to get meat and meat products from said Andalusia Packing Com-
115 pany to fill its orders; prices of said products were advanced by said Andalusia Packing Company, at the instance of respondent, so as to make their sale increasingly difficult, and said prices were at times higher than the prices at which the branch house of respondent in Atlanta was permitted to sell identical products in the same territory.

(h) Immediately after the acquisition by respondent of the captial stock of said Andalusia Packing Company, July 24, 1917, the Manager in charge of said Andalusia Packing Company for respondent, adopted the policy of selling the products of said Andalusia Packing Company through respondent's branch houses in Atlanta and elsewhere. As a consequence, said J. W. Clark Company was grdually eliminated from the business, and about October, 1917, was cut off from shipments by and receipts from said Andalusia Packing Company. Competition of said Andalusia Packing Company with respondent and with said Moultrie Packing Company in Atlanta, Georgia, and the neighborhood thereof, which was nominal after July 24, 1917, wholly ceased about October, 1917.

(i) Between October, 1916, and July, 1917, said Moultrie Packing Company sold and shipped its meat and meat products in interstate commerce, to Jacksonville, Florida, in competition with respondent. Such sales were made through Samuel T. Smith, broker for said Moultrie Packing Company, who sold in Jacksonville, Florida, and the neighborhood thereof, to the same dealers to whom respondent sold or endeavored to sell similar products at the same time in interstate commerce. The sales of said Samuel T. Smith of the products of said Moultrie Packing Company had amounted, during the period he so represented said Company in Jacksonville, to many thousands of dollars, and estimated at a volume of two carloads of said products per week.

(j After respondent had acquired the capital stock of

said Moultrie Packing Company said Smith found it increasingly difficult to get the meats and meat products of said Moultrie Packing Company at prices at which they could be sold in Jacksonville and the neighborhood thereof, and, at times, respondent, through its branch house in Jacksonville, sold said products at prices substantially lower than said Smith was permitted to make to his customers. After July, 1917, said Smith sold but nominal amounts of said products of said Moultrie Packing Company in Jacksonville and the neighborhood thereof, and in September, 1917, his sales of said products wholly ceased and he ceased to represent said Moultrie Packing Company in the sale of its products in said territory. Thereafter, the products of said Moultrie Packing Company, when sold at all in Jacksonville and the neighborhood thereof, were sold only through the branch house of respondent, and competition between respondent and said Moultrie Packing Company in the sale of meat products wholly ceased after September, 1917, in Jacksonville and the neighborhood thereof.

(k) Between September, 1916, and July 24, 1917, said Andalusia Packing Company sold and shipped its meats and meat products to Birmingham, Alabama and the neighborhood thereof, to the same dealers to whom, at the same time, respondent sold and endeavored to sell similar products shipped into Birmingham, Alabama, and the neighborhood thereof, in interstate commerce.

(l) During said period, from October, 1916, to July 24, 1917, E. P. Allen & Company, brokers dealing in meats
116 and meat products, represented said Andalusia Packing Company in the sale of its said products in Birmingham and the neighborhood thereof, where said E. P. Allen and his salesmen during said period constantly met in competition salesmen of respondent selling similar products. Said Allen and his salesmen in said period solicited the same customers and sold similar products to the same dealers as respondent. Said E. P. Allen & Company sold during said period such products of said Andalusia Packing Company to the volume of many thousands of dollars, the volume being estimated at two to three carloads a week. Said products were of soft, or peanut-fed pork and were sold at a differential lower than Western pork, but were in active demand in said territory.

(m) After respondent had acquired the capital stock of said Andalusia Packing Company, July 24, 1917, said E. P.

Allen & Company found it increasingly difficult to secure the products of said Andalusia Packing Company to supply its customers, and in many instances the prices which said E. P. Allen & Company were instructed to secure for said products by said Andaluia Packing Company were substantially higher than the prices at which the branch house of respondent in Birmingham, Alabama, was permitted to sell the same products in Birmingham and the neighborhood thereof. About the latter part of October, 1917, said Andalusia Packing Company ceased to sell its said products through said E. P. Allen & Company, and thereafter sold said products solely through the branch house or other sales organization of respondent, and competition between said Andalusia Packing Company and respondent, which had been nominal after July 24, 1917, wholly ceased in Birmingham, Alabama, and the neighborhood thereof, as well as elsewhere.

(n) Similar competition between respondent, said Andalusia Packing Company and said Moultrie Packing Company, prior to said acquisition by respondent of the stock of said Andalusia Packing Company and said Moultrie Packing Company, took place in scores of cities and towns in the State of Georgia, Florida and Alabama, and wholly ceased soon after said acquisition of said stock, and before the purchase by respondent of the physicial assets, as such, of said Andalusia Packing Company and said Moultrie Packing Company.

Paragraph Eight: For many years prior to the times that said Moultrie Packing Company and said Andalusia Packing Company began business many dealers in meats and meat products, including respondent, offered their products for sale to dealers in the territory in which said Moultrie Packing Company and said Andalusia Packing Company did the bulk of their business—namely, in the States of Georgia, Florida and Alabama. Sale in said territory of said products of said Moultrie Packing Company and said Andalusia Packing Company, from the autumn of 1916 to July, 1917, materially increased competition in said territory in said products, especially in soft or oily pork products. For a time after the acquisition by the respondent of the stock of said Moultrie Packing Company and said Andalusia Packing Company, there was a substantial lessening of competition in said territory in the sale of said oily pork products, and a complete elimination of competition, in said product and other meat and meat products between

respondent and said Moultrie Packing Company and said Andalusia Packing Company, and between said Moultrie Packing Company and said Andalusia Packing Company.

117 Paragraph Eight and a Half: Respondent, in the spring of 1917, decided to enter the southern field in the packing industry, wherein the Moultrie Packing Company and the Andalusia Packing Company were operating, either by building or acquiring a packing plant, after respondent's representatives had reported that at that time, on account of the increasing live-stock production, respondent might profitably enter such field. Respondent's said representative had reported adversely to such entry for the previous two years. Respondent, by its acquisition of the capital stock and control of the said two operating competitive concerns, to-wit, the Moultrie Packing Company and the Andalusia Packing Company, rather than building a plant of its own, not only eliminated the then existing competition between respondent and the concerns whose capital stocks were acquired, but also eliminated all increasing, prospective and potential competition from such concerns, particularly in the purchase of live stock.

Paragraph Nine: That :

(a) Moultrie Packing Company, in 1914, slaughtered 53 head of cattle of a dressed weight of 24,739 pounds, and 2032 hogs, of an aggregate dressed weight of 200,598 pounds; in 1915, said Company slaughtered 1629 cattle of a dressed weight of 396,748 pounds and 32,658 hogs of a dressed weight of 2,199,441 pounds; in 1916, said Packing Company slaughtered 701 cattle of a dressed weight of 196,333 pounds; and 78,125 hogs of a dressed weight of 7,305,506 pounds; for the first six months of 1917, said Company slaughtered 901 cattle of a dressed weight of 252,280 pounds, and 42,421 hogs of a dressed weight of 3,907,909 pounds; in 1914, said Company produced 20,320 pounds of lard; in 1915, 326,580 pounds; in 1916, 1,171,875 pounds, and for the first six months of 1917, 827,575 pounds. It had ample supply of hogs except in three or four summer months, at times many more than it could handle. Said Company found ready sale for its products and its business was highly profitable and growing rapidly; up to the time that respondent acquired its capital stock it was marketing its product through salesmen and brokers.

(b) Andalusia Packing Company, in 1916 slaughtered 21 cattle of a dressed weight of 6,246 pounds and 31,439 hogs

of a dressed weight of 3,065,341 pounds; from January 1, 1917, to May 1, 1917, said Company slaughtered 549 cattle of a live weight of 432,195 pounds and 26,438 hogs of a dressed weight of 2,914,692 pounds. It produced 383,774 pounds of lard in 1916, and 564,293 pounds of lard from January 1, 1917, to May 1, 1917. It had ample supply of live stock, especially hogs, except during three or four summer months. Said Company found a ready sale for its products, and its business was highly profitable and was growing rapidly at the time respondent acquired its capital stock.

(c) Respondent greatly enlarged the capacity of the plant of said Moultrie Packing Company, after having acquired its stock; its slaughter of beef cattle was increased radically, but, except in 1919, its slaughter of hogs at said plant had decreased since the acquisition of the capital stock of said plant by respondent. In the last six months of 1917, at the plant of said Moultrie Packing Company there were slaughtered 2,573 cattle and 26,566 hogs; in 1918, at said plant there were slaughtered 18,008 cattle and 72,666 hogs; in 1919, there were slaughtered at said plant, 10,381 118 cattle and 103,099 hogs; in 1920, at said plant there were slaughtered 8,578 cattle and 65,281 hogs; in the first six months of 1921, there were slaughtered at said plant, 3,626 cattle and 36,080 hogs.

(d) The respondent somewhat enlarged the capacity of said Andalusia Packing Company plant after having acquired its stock, or at least made some improvements in said plant. The slaughter of beef cattle was greatly increased after respondent had acquired the stock of said Andalusia Packing Company, but its slaughter of hogs at said plant, after such acquisition, decreased as compared with the slaughter of hogs at said plant before such acquisition. In the last five months of 1917, there were slaughtered at the plant of the Andalusa Packing Company, 21,186 cattle and 63,976 hogs; in 1919, there were slaughtered at said plant, 11,759 cattle and 61,676 hogs; and in 1920, there were slaughtered at said plant 8,687 cattle and 39,523 hogs; for the first six months of 1921, there were slaughtered at said plant 4,552 cattle and 29,313 hogs.

(e) Respondent Company, in its various plants, in 1917, slaughtered 2,153,908 cattle, 846,472 calves, 3,162,930 sheep and 7,288,169 hogs; in 1919, the year of its largest production, respondent slaughtered in its various plants 2,337,124 cattle, 1,231,262 calves, 4,044,719 sheep and 8,662,824 hogs. Its production fell off radically in 1920. Respondent is one

of the largest two of the meat packers and does business through branches, salesmen and car routes, all over the United States.

(f) In 1919, there were slaughtered in the United States, under federal inspection, as reported officially: 10,989,984 cattle, 3,969,019 calves, 12,691,117 sheep and lambs, 87,380 goats, and 41,611,830 hogs; so that respondent slaughtered more than one-fifth of the cattle and hogs and about one-third of the calves and sheep slaughtered under federal inspection in the year 1919.

Paragraph Ten: That the acquisition of said capital stock of said Moultrie Packing Company and of said Andalusia Packing Company by respondent, as described in Paragraphs Four and Five hereof, was not solely for investment, nor acquired in forming a subsidiary corporation under the permissive provisions prescribed in Section 7 of the Act of Congress approved October 15, 1914, entitled, "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes."

Paragraph Eleven: That Section 7 of the Act of Conpress approved October 15, 1914, entitled, "An Act to supplement existing laws against unlawful restraints and monoplies, and for other purposes," is and provides in part as follows:

"That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or share capital of another corporation engaged also in commerce, where the effect of such acquisition may be to substantially lessen competition between the corporation making the acquisition, or to restrain such commerce in any section or community, or tend to create a monopoly in any line of commerce."

119 Paragraph Twelve: That the acquisition and continued control and ownership of the capital stock of said Moultrie Packing Company corporation, and of said Andalusia Packing Company corporation, by respondent, and the subsequent continued control and operation of the packing plants and businesses of said corporations by respondent, and the nominal transfers to respondent of the physical assets and businesses of said corporations, following respondent's acquisition of such capital stock suppression of competition between the Moultrie Packing Company and the Andalusia Packing Company, and the total suppression of competition between respondent and each of said named companies, resulting from such control and operation by re-

spondent under the conditions and circumstances set forth in the foregoing Findings as to the Facts, were and are in violation of the provisions of Section 7 of an Act of Congress approved October 15, 1914, entitled, "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes"; and were and are unfair methods of competition within the meaning of Section 5 of an Act of Congress approved September 26, 1914, entitled, An Act To create a Federal Trade Commission, to define its powers and duties, and for other purposes."

Conclusion.

The acquisition and continued control and ownership of the capital stock of said Moultrie Packing Company corporation, and of said Andalusia Packing Company corporation, by respondent, and the subsequent continued control and operation of the packing plants and businesses of said corporations by respondent, and the nominal transfers to respondent of the physical assets and businesses, following respondent's acquisition of such capital stock and control of said corporations, and the total suppression of competition between the Moultrie Packing Company and the Andalusia Packing Company, and the total suppression of competition between respondent and each of said named companies, resulting from such control and operation by respondent, under the conditions and circumstances set forth in the foregoing Findings as to the Facts, were and are in violation of the provisions of Section 7, of an Act of Congress approved October 15, 1914, entitled, "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes"; and were and are unfair methods of competition within the meaning of Section 5 of an Act of Congress approved September 26, 1914, entitled, "An Act To create a Federal Trade Commission, to define its powers and duties, and for other purposes."

By the Commission:

(Seal) (signed) VICTOR MURDOCK,
VICTOR MURDOCK,
Acting Chairman.

Dated this 17th day of November, A. D. 1922.

Attest:

(Signed) OTIS B. JOHNSON
OTIS B. JOHNSON,
Secretary.

te of
ary of
al
Com-
n, filed
4, 1923.

121 UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION: ss.

Federal Trade Commission
v.
Swift & Company.
} Docket No. 453

I, Otis B. Johnson, Secretary of the Federal Trade Commission, do hereby certify that hereunto annexed is a true and correct transcript of the testimony taken in the above entitled case as stipulated by and between attorneys for the respective parties.

That this transcript is certified to the United States Circuit Court of Appeals for the Seventh Circuit, by reason of the filing in the said Court of a petition for review of the order entered by the said Federal Trade Commission under date of August 3, 1922.

OTIS B. JOHNSON,
OTIS B. JOHNSON,
(Seal) *Secretary, Federal Trade Commission.*

Endorsed: Filed Sept. 24, 1923. Edward M. Holloway, Clerk.

123 BEFORE THE FEDERAL TRADE COMMISSION.

Federal Trade Commission,
Petitioner,
vs.
Swift & Company,
Defendant.
} Docket No. 453.

Chicago, Ill., February 9, 1921.
10:00 o'clock A. M.

Before:
G. T. Sadler, Examiner.

Met pursuant to notice.

Appearances.

A. N. Taylor, and D. F. Haycraft, c/o Federal Trade Commission, Washington, D. C., Appearing for the Federal Trade Commission.

A. H. & Henry Veeder, James M. Sheean and Frank L. Horton, Chicago, Ill., appearing for Swift & Company.

127 PROCEEDINGS.

Examiner Sadler: The hearing will come to order.

This is a hearing before the Federal Trade Commission, entitled: Federal Trade Commission vs. Swift & Company, in Docket 453.

Any person desiring a typed copy of the proceedings of the commission in the matter now pending, can obtain an order blank for that purpose from the official stenographer. The price for the same, established by contract with the stenographer, who is not a Government employe, is at the rate of 15 cents per page.

Who is representing the Commission in this proceeding?

Mr. Taylor: A. N. Taylor and D. F. Haycraft.

Examiner Sadler: And the Respondent?

Mr. Horton: The Respondent is represented by A. H. & Henry Veeder, James M. Sheean and Frank L. Horton.

Examiner Sadler: Counsel for the Commission may proceed.

Mr. Taylor: I will ask Mr. Smithwick to take the witness stand.

128 J. G. SMITHWICK called as a witness for the Commission at Chicago, Illinois, on February 9, 1921, after having been first duly sworn, testified in substance as follows (pages 6-115):

That he is General Accountant for Swift & Company and occupied that position for six years; that he received certain subpoenas from the Federal Trade Commission and produced certain documents under those subpoenas. Among the documents produced were copies of five letters from Louis F. Swift and Edward F. Swift, all dated May 19, 1917. Mr. Smithwick testified that he obtained these copies from the files of Swift & Company. (copies were introduced in evidence and marked: "Commission's Exhibit 1 to 5 inclusive")

That Edward F. Swift is Vice President of Swift & Company and Louis F. Swift is President of Swift & Company.

Mr. Smithwick, pursuant to subpoena, thereupon produced a letter dated November 23, 1917 from Swift & Company to Albert H. and Henry Veeder, and testified that he obtained this letter from the files of Albert H. and Henry Veeder. (the letter was received in evidence and marked: "Commission's Exhibit 6).

Mr. Smithwick, pursuant to subpoena, thereupon produced a carbon copy of letter, dated November 26, 1917, from Albert H. and Henry Veeder to Swift & Company, taken from the files of Albert H. and Henry Veeder, and testified that it was carbon copy of letter which was mailed by
129 Albert H. and Henry Veeder to Swift & Company, and that the original was signed by Albert H. and Henry Veeder, per MW. (letter was received in evidence and marked: "Commission's Exhibit 7")

Mr. Smithwick, pursuant to subpoena, thereupon produced a letter from Swift & Company, per J. G. S. to Messrs Albert H.. and Henry Veeder. (the letter was received in evidence and marked: "Commission's Exhibit 8")

Mr. Smithwick, pursuant to subpoena, thereupon produced a carbon copy of a letter, dated November 30, 1917, from Albert H. and Henry Veeder to Swift & Company, and testified that it was taken from the files of Albert H. and Henry Veeder, and that the original copy was signed, Albert H. and Henry Veeder. (the letter was received in evidence and marked: Commission's Exhibit 9")..

Mr. Smithwick, pursuant to subpoena, thereupon produced copy of another letter also dated November 30, 1917 from Albert H. and Henry Veeder to Swift & Company, and testified that this copy was obtained from the office of Albert H. and Henry Veeder, and that the original was signed by Albert H. and Henry Veeder. (the letter was received in evidence and marked: "Commission's Exhibit 10").

Mr. Smithwick, pursuant to subpoena, thereupon produced carbon copy of letter, dated December 18, 1917, addressed to Mr. F. S. Hayward, Secretary of Swift & Company, and testified that the original letter was signed, Albert H. and Henry Veeder, that this copy was taken from the records of Al-
130 bert H. and Henry Veeder. (copy of letter was received in evidence and marked: "Commission's Exhibit 11"

Mr. Smithwick, pursuant to subpoena, thereupon produced a letter dated December 19, 1917, signed by F. S. Hayward for Swift & Company to Albert H. and Henry Veeder, and testified that the letterhead was marked: "F. S. Hayward, Secretary," that Mr. Hayward was Secretary at that time, and was Secretary of Swift & Company prior to 1911 to about January 1, 1920. (the letter was received in evidence and marked: "Commission's Exhibit 12")

Mr. Smithwick, pursuant to subpoena, thereupon produced copy of letter, dated December 20, 1917, from Albert H. and Henry Veeder to F. S. Hayward, Secretary of Swift & Company, together with copies of call of special meeting of stockholders of the Moultrie Packing Company, minutes of special meeting of stockholders of the Moultrie Packing Company, and notice of special meeting of stockholders of the Moultrie Packing Company, and affidavit of C. H. Wallow, Secretary of the Moultrie Packing Company, and testified that the carbor copies of letter and papers described above, attached hereto, were taken from the files of Albert H. and Henry Veeder that the carbon copy of the letter is the carbon copy of original letter which was mailed to Mr. Hayward. (The carbon copy and the papers attached hereto, described above, were received in evidence and marked: Commission's Exhibit 13-13A-13B-12C-13D").

131 Mr. Smithwick, pursuant to subpoena, thereupon produced carbon copy of letter, dated January 10, 1918, from Albert H. and Henry Veeder to Swift & Company, and testified that it was a carbon copy of original letter sent to Swift & Company and was obtained from the files of Albert H. and Henry Veeder, and that the original letter bore the

signature, Albert H. and Henry Veeder. (copy of letter was received in evidence and marked: "Commission's Exhibit 14").

Mr. Smithwick, pursuant to subpoena, thereupon produced letter dated January 11, 1918, written on letterhead of Swift & Company by F. S. Hayward, Secretary, bearing the signature of F. S. Hayward, addressed to Albert H. and Henry Veeder, and testified that the signature of F. S. Hayward was apparently written by his clerk, Miss Webb. (letter was received in evidence and marked: "Commission's Exhibit 15").

Mr. Smithwick, pursuant to subpoena, thereupon produced carbon copy of letter from Albert H. and Henry Veeder to F. S. Hayward, Secretary of Swift & Company, dated January 14, 1918, and testified that this was carbon copy of original letter mailed to Swift & Company, and that the original letter bore the signature of Albert H. and Henry Veeder. (copy of letter was received in evidence and marked: "Commission's Exhibit 16").

Hr. Smithwick, pursuant to subpoena, thereupon produced carbon copy of letter from H. C. Carr to T. E. Henderson, dated June 28, 1917, and testified that H. C. Carr
132 was an employe of Swift & Company and that this copy was taken from the files of Swift & Company, and that copies of this letter were furnished to Louis F. Swift, President of Swift & Company, Edward F. Swift, Vice President of Swift & Company, Gustavus F. Swift, Jr., Department Head and Director of Swift & Company, L. A. Carton, Treasurer and Director of Swift & Company, Henry Veeder, General Counsel, John M. Chaplin, Accountant for Swift & Company. (copy of letter was received in evidence and marked: "Commission's Exhibit 17").

Mr. Smithwick, pursuant to subpoena, thereupon produced copy of letter from T. E. Henderson to H. C. Carr, dated July 2, 1917, and testified that carbon copy of the copy produced was found by him in the files of Swift & Company, and that copies of the letter were made and sent to Louis F. Swift, Edward F. Swift, Charles H. Swift, Gustavus F. Swift, L. A. Carton, John M. Chaplin and Henry Veeder; (copy of letter was received in evidence and marked: "Commission's Exhibit 18"). that it is and was the custom of employes of Swift & Company to indicate to their stenographers parties to whom copies of communications were to be furnished, and it is a practice to indicate on the carbons the parties for

which the copies are intended; that this custom prevailed in regard to letters coming in; copies of which were sent around to the various people, officers or heads.

133 Referring to Exhibit 1, which he identified, and having his attention called to—"C. H. S., G. F. S. Jr., W. B. T. and H. C. C.," stated that C. H. S. referred to Charles H. Swift, an employe of Swift & Company, G. F. S. Jr., Gustavus F. Swift, Jr. a Director of Swift & Company, W. B. T., W. B. Traynor, Clerk to the President of Swift & Company, H. C. C., H. C. Carr, Department Head of Swift & Company, and referring to Exhibit 2, upon which appear the words: "C. H. S., G. F. S. Jr., W. B. T., and L. A. C.," stated that they referred to—Charles H. Swift, G. F. Swift, W. B. Traynor and L. A. Carton, and that Mr. Carton is Treasurer of Swift & Company.

Referring to Exhibit 3, he made the same answers as he did to Exhibit 1.

Referring to Exhibit 4, he made the same answers as he did to Exhibit 1.

Referring to Exhibit 5, he made the same answers as he did to Exhibit 1.

Mr. Smithwick, pursuant to subpoena, thereupon produced a letter dated July 6, 1917 from H. C. Carr, addressed to Robert E. Fisher. (letter was received in evidence and marked: "Commission's Exhibit 19").

Mr. Smithwick, pursuant to subpoena, thereupon produced a carbon copy of letter, dated July 9, 1917, from H. C. Carr to T. E. Henderson, and testified that copy of letter was taken from the files of Albert H. and Henry Veeder, and

134 that the words: "Copies, L. F. S., E. F. S., H. V., G. M. C.," appearing thereon, refer to Louis F. Swift, Edward F. Swift, Henry Veeder and John M. Chaplin. (letter was received in evidence and marked: "Commission's Exhibit 20").

Mr. Smithwick, pursuant to subpoena, thereupon produced a telegram dated July 11, 1917, from R. E. Fisher to Albert H. and Henry Veeder. (telegram was received in evidence and marked: "Commission's Exhibit 21").

Mr. Smithwick, pursuant to subpoena, thereupon produced copy of letter dated July 14, 1917, from Albert H. and Henry Veeder to Louis F. Swift, and testified that this copy was obtained from the files of Albert H. and Henry Veeder; that it was a duplicate of the original letter and that the original letter was signed, Albert H. and Henry Veeder. (copy of

letter was received in evidence and marked: "Commission's Exhibit 22").

Mr. Smithwick, pursuant to subpoena, thereupon produced carbon copy of letter, dated July 20, 1917, from H. C. Carr to W. B. Traynor, and testified that this is correct copy of letter in the office of Swift & Company, and that the words: "Copies, G. F. S. Jr., L. A. C., H. V., R. C. M., appearing upon the letter are the initials of Gustavus F. Swift, Jr., L. A. Carton, Henry Veeder and R. C. McManus, and that Mr McManus is attorney for Swift & Company, employed in the office of Swift & Company. (copy of letter was received in evidence and marked: "Commission's Exhibit 23").

135 Mr. Smithwick, pursuant to subpoena, thereupon produced letter dated July 25, 1917, from Albert H. and Henry Veeder to G. D. Rogers, and testified that it was taken from the files of Albert H. and Henry Veeder, and that the original letter was signed, Albert H. and Henry Veeder. (letter was received in evidence and marked: "Commission's Exhibit 24").

Mr. Smithwick, pursuant to subpoena, thereupon produced carbon copy of letter, dated August 18, 1917, from Albert H. and Henry Veeder to C. A. Peacock, and stated that this was carbon copy of original letter signed by Albert H. and Henry Veeder, and that copy of letter was sent to W. B. Traynor, Clerk in the office of the President of Swift & Company. (letter was received in evidence and marked: "Commission's Exhibit 25").

Mr. Smithwick, pursuant to subpoena, thereupon produced a letter dated April 9, 1919 from Swift & Company to Albert H. and Henry Veeder. (letter was received in evidence and marked: "Commission's Exhibit 26").

Mr. Smithwick, pursuant to subpoena, thereupon produced letter dated April 23, 1918, written on the stationery of Swift & Company, F. S. Hayward, Secretary, apparently signed by F. S. Hayward. (letter was received in evidence and marked: "Commission's Exhibit 27").

Mr. Smithwick, pursuant to subpoena, thereupon produced copy of minutes of meeting held in the Directors

136 Room of Swift & Company, on the Fourth Floor, Tuesday, May 22, 1917, 9:15 A. M., attended by Messrs Louis F. Swift, Gustavus F. Swift, Jr., A. B. Swift, J. M. Chaplin, H. C. Carr, F. A. Hunter, O. C. E. Mathies, F. J. King, F. A. Luchsinger, and W. B. Traynor, and testified that the words: "Copies, G. F. Swift. Jr., H. H. S., E. L. W., O. C. E. M.,

H. V., H. C. C., and J. M. C." were placed at the head of this copy pursuant to the custom which he just described with regard to copies of letters, and that the initials, H. H. S., represent Harold H. Swift, Department Manager, Swift & Company, initials O. C. E. M., O. C. E. Mathies, Accountant in May, 1917, for Swift & Company, E. L. W. represnts E. L. Ward, Office Manager in May, 1917 of Swift & Company, and that the copy produced was original copy of the original minutes. (the minutes were received in evidence and marked: "Commission's Exhibit 28").

Mr. Smithwick, pursuant to subpoena, thereupon produced copy of General Journal record of the amount of money expended by Swift & Company for the capital stock of the Andalusia Packing Company, and testified that Swift & Company's ledger contained an entry showing that $886,550 was paid out by Swift & Company for the stock of the Andalusia Packing Company. (This paper was received in evidence and marked: "Commission's Exhibit 29").

Mr. Smithwick, pursuant to subpoena, thereupon produced copy of record showing stock investment account
137 covering 2665 shares of the Andalusia Packing Company by Swift & Company. (This paper was received in evidence and marked: "Commission's Exhibit 30").

Mr. Smithwick, pursuant to subpoena, thereupon produced and identified the minute book of the Moultrie Packing Company, from which book counsel for the Commission offered in evidence pages 6 and 7, which were received in evidence and marked: "Commission's Exhibit 31," and pages 8 and 9 marked: "Commission's Exhibit 32."

Counsel for the Commisison also offered in evidence pages 17 and 18, taken from the minute book, which were received in evidence and marked: "Commission's Exhibit 33," also the minutes of the adjourned annual meeting of the stockholders of the Moultrie Packing Company held August 13, 1917, pages 100 and 101 of the minute book, which were received in evidence and marked: "Commission's Exhibit 34."

Mr. Smithwick, thereupon continued his testimony, that F. A. Luchsinger is an employee of Swift & Company; that on August 13, 1917 he was employed by the Moultrie Packing Company, and prior to that time he had been an employee of Swift & Company in the capacity of Assistant Manager of the Provision Department; and that he left Swift & Company to take a position with the Moultrie Packing Company about August 13, 1917; that Mr. C. H. Wallow in August, 1917, was

Office Manager for the Moultrie Packing Company, and
138 previous to that time had been an Accountant for Swift & Company; that W. C. Vereen was a banker at Moultrie, Ga., W. B. Traynor whose name appears as a stockholder of the Moultrie Packing Company in Exhibit 34 is the same Mr. Traynor who had been identified as Clerk to the President of Swift & Company; that C. A. Peacock is at present Secretary of Swift & Company, and August 13, 1917 was Assistant Secretary at Swift & Company; that J. J. McGuire, according to Exhibit 34, is the owner of 150 shares of stock of the Moultrie Packing Company, and is Assistant Treasurer of Swift & Company; that T. H. Ingersen was Department Manager of Swift & Company; H. C. Carr is the same Mr. Carr that had been identified by Mr. Smithwick before in his testimony; that E. B. Kixmiller is an attorney for Swift & Company. Counsel for the Commission thereupon offered in evidence minutes of the meeting of the Board of Directors of the Moultrie Packing Company of November 3, 1917, pages 104 and 105 of the minute book of that Company identified by Mr. Smithwick. They were received and marked: "Commission's Exhibit 35").

In like manner the minutes of the special meeting of the stockholders of the Moultrie Packing Company of January 5, 1918, appearing on page 106 of the minute book were admitted in evidence and marked: "Commission's Exhibit 36," and the minutes of the special meeting of stockholders of the Moultrie Packing Company held on January 5, 1918, appearing on pages 107 and 108 of the minute book were re-
139 ceived in evidence and marked: "Commission's Exhibit 37"; affidavit of C. H. Wallow of mailing notices of special meeting of the stockholders of the Moultrie Packing Company, held the 5th of January, 1918, appearing on page 109 of the minute book were received in evidence and marked: "Commission's Exhibit 38"; notice of special meeting of stockholders of the Moultrie Packing Company, to be held on January 5, 1918, appearing on page 110 of the minute book was received in evidence and marked: "Commission's Exhibit 39."

Mr. Smithwick, pursuant to subpoena, thereupon produced and identified stock certificate book of the Moultrie Packing Company taken from the files of Swift & Company, and testified from examination of the book that the first 150 certificates had been cancelled and are attached to the stub record of the original issue thereof; that stub 151 represents 150

shares issued to W. B. Traynor, August 2, 1917, and read into the record the original certificate number, the number of shares and the amount from which it was transferred; that stub 152 calls for 150 shares, issued to C. A. Peacock, August 2, 1917, and read into the record, the original certificate number, the number of shares and the amount from which it was transferred; that stub 153 calls for 150 shares, issued to J. J. McGuire, August 2, 1919, and read into the record, the original certificate number, the number of shares and the amount from which it was transferred; certificate 154 calls for 150 shares, issued to T. H. Ingwersen, August 2, 1917, and read into
140 the record the original certificate number, the number of shares, and the amount from which it was transferred; certificate 155 calls for 125 shares to F. J. King, August 2, 1917, and read into the record the original certificate number, the number of shares and the amount from which it was transferred; certificate 156 calls for 125 shares issued to H. C. Carr, August 2, 1917, read into the record the original certificate number, the number of shares and the amount from which it was transferred; certificate stub 157 represents 58 shares issued to E. B. Kixmiller August 2, 1917, and read into the record the original certificate number, the number of shares and the amount from which it was transferred; certificate 158 represents 5 shares issued to O. C. E. Mathies August 2, 1917, and read into the record the original certificate number, the number of shares and the amount from which it was transfered; certificate 159 represent 5 shares issued to F. H. Luchsinger August 2, 1917, and read into the record the original certificate number, the number of shares and the amount from which it was transferred; certificate 160 represents 5 shares issued to W.C. Vereen August 2, 1917, and read into the record, the original certificate number, the number of shares and the amount from which it was transferred; certificate 161 represents 5 shares to C. H. Wallow, August 2, 1917, read into the record the original certificate number, the number of shares and the amount from which it was transferred.

141 Certificate 162 represents 20 shares issued to E. B. Kixmiller, November 16, 1917, read into the record the original certificate number, the number of shares and the amount from which it was transferred; certificate 163 represents 5 shares issued to E. B. Kixmiller, November 16, 1917, and read into the record the original certificate number, the number of shares and the amount from which it was trans-

ferred; certificate 164 represents 3 shares of stock issued to E. B. Kixmiller in lieu of those transfers from original certificates No. 26 for 3 shares, dated November 26, 1917; that stub 165 calls for 10 shares issued to E. B. Kixmiller, March 26, 1918; that certificates of stock were not attached to stubs 161 to 165 inclusive. (Stock Book was thereupon marked "Commission's Exhibit A for identification."

Mr. Smithwick, pursuant to subpoena, thereupon produced and identified the minute book of the Andalusia Packing Company containing among other things articles of incorporation, which was marked: "Exhibit B for identification." Counsel for Commission then read into the record page 29, Commission's Exhibit B for identification, as follows:

First: The name of the corporation shall be Andalusia Packing Company.

Second: The objects for which the corporation is formed are as follows, viz.: to build, operate and maintain a packing house or packing plant and cold storage building, and to
142 engage in, carry on and operate a general packing house and sold storage business; to buy, sell and slaughter hogs, cattle, sheep, goats, poultry, and fowls of every class of description, and to sell the manufactured products thereof; to buy and sell all food products, both of an animal and vegetable nature; to buy, sell and handle generally all by-products resulting from the slaughtering, manufacturing and converting the animals, fowls and poultry into food products; to preserve in cold storage all kinds of food products of every class and description, and to buy, sell, store and deal generally in same; to erect, own and operate warehouses for the storage of its own products and the products, goods, and effects of other firms, corporations and individuals; to construct, maintain and operate an ice manufacturing plant, and to buy, sell and deal generally in the ice business; to construct, maintain and operate a canning plant, and to can food products of every class and description, both of an animal and vegetable nature; to manufacture and sell fertilizer or any chemical ingredient thereof; to construct, maintain and operate an electric light and water plant, and deal generally in the business of furnishing electricity, electric light and water for either private or public consumption or both; to have and exercise all the rights, powers and privileges conferred upon corporations by Article 5, chapter 69 of the Civil Code of Alabama of the year 1907; to engage in and carry on all of the business or businesses, accomplish any

or all of the objects herein set forth, with the right to
143 own, construct and operate all necessary plants, cars, railways, dams, mill-races and machinery of every class and description, and to do all such things and acts, and to have and to exercise all such rights and powers in connection therewith as are or may be authorized or permitted by the laws of the Sate of Alabama or any other state or territory of the United States of foreign country in which this corporation shall do business.

"Third: The location and the principal office of the said corporation in the State of Alabama is and shall be in the town of Andalusia, in the County of Covington, in the State of Alabama.

"Fourth: The amount of the total authorized capital stock of said corporation is two hundred and fifty thousand dollars ($250,000), and the same is divided into five thousand (5,000) shares of fifty dollars ($50.00) each; the amount of capital with which said corporation shall begin business is one hundred and twenty two thousand seven hundred dollars ($122,700). There is only one class of the stock of said corporation."

Counsel for Commission then offered in evidence copy of by-laws of the Andalusia Packing Company appearing at pages, 97, 99, 101, 103, 105, 107, 109 and 111 of the minute book, the even numbered pages being blank and not written on, which was received in evidence and marked: "Commission's Exhibit 40."

Counsel for Commission thereupon offered in evidence the minutes of the special meeting of the Board of Directors
144 of the Andalusia Packing Company, held on the 24th day of July, 1917, at 4 o'clock in the afternoon, on pages 135, 136 and 137 of the minute book of the Andalusia Packing Company, which were received in evidence and marked: "Commission's Exhibit 41."

Counsel for Commission then offered in evidence copy of the minutes of the special meeting of the stockholders of the Andalusia Packing Company, held at Chicago, Illinois, on the 24th day of July, 1917, appearing at pages 138, 139, 140, 141 and 142 of the minute book of the Andalusia Packing Company, which was received in evidence and marked: "Commission's Exhibit 42."

Counsel for Commission then offered in evidence minutes of a special meteing of the Board of Directors of the Andalusia Packing Company, held on August 7, 1917, appearing

on page 145 of the minute book of the Andalusia Packing Company, which were received in evidence and marked: "Commission's Exhibit 43."

Counsel for Commission then offered in evidence minutes of the meeting of the Board of Directors of the Andalusia Packing Company, held at the Union Stock Yards, Chicago, on August 14, 1917, appearing on page 143 of the minute book of the Andalusia Packing Company, which were received in evidence and marked: "Comission's Exhibit 44."

Mr. Smithwick then testified that C. B. Colt was an employe of the Andalusia Packing Company in 1917, and that
145 he had been, prior to that time, an employe of Swift & Company.

Counsel for the Commission then offered in evidence minutes of the regular annual meeting of the stockholders of the Andalusia Packing Company, held in Chicago on Monday, October 8, 1917, appearing on page 147 of the minute book, which were received in as evidence and marked: "Commission's Exhibit 45."

The minutes of the regular annual meeting of the Board of Directors of the Andalusia Packing Company, held October 8, 1917, were not offered in evidence as there was not a quorum present. The meeting was adjourned to October 29, 1917.

Counsel for the Commission offered in evidence the minutes of the adjourned meeting of the Board of Directors of the Andalusia Packing Company, held on October 29, 1917, appearing on page 150 of the minute book of the Andalusia Packing Company, which were received in evidence and marked: "Commission's Exhibit 46."

Counsel for the Commission offered in evidence the minutes of the Directors' meeting of the Andalusia Packing Company, held March 26, 1918, appearing on page 151 of the minute book of the Andalusia Packing Company, which were received in evidence and marked: "Commission's Exhibit 47."

Counsel for the Commission offered in evidence the minutes of the special meeting of the Board of Directors of the Andalusia Packing Company held March 30, 1918, appearing on
two pages bearing no page number, but immediately fol-
146 lowing the page on which the minutes of the Directors' meeting of March 26, 1918, are typed, which were received in as evidence and marked: "Commission's Exhibit 48."

Counsel for the Commission offered in evidence the minutes of the special meeting of the Board of Directors of the

Andalusia Packing Company, held on June 29, 1918, appearing in the minute book of the Andalusia Packing Company on an unnumbered page, immediately following the minutes of the special meeting of the Board of Directors held on March 30, 1918, which were received in evidence and marked: "Commission's Exhibit 49."

Mr. Smithwick then testified that the minute book of the Andalusia Packing Company, marked: "Commission's Exhibit B for identification" was furnished to Swift & Company by T. E. Henderson of the Andalusia Packing Company; that he was acquainted with Mr. C. A. Peacock, Secretary of the Andalusia Packing Company, according to the minute book and that his address is, Union Stock Yards, Chicago, Illinois, Care of: Swift & Company. He thereupon produced and identified stock certificate books of the Andalusia Packing Company, which were marked: "Commission Exhibit C and D for identification," and testified further from examination of these books that certificates 1 to 277 inclusive were all cancelled and attached to their respective stubs in the certificate book, and that certificate stub 278 calls for 100 shares issued to T. E. Henderson, July 24, 1917, and representing transfers from 15 original certificates 147 aggregating 100 shares; that certificate stub 279 represents certificate for 820 shares issued to H. C. Carr, dated July 24, 1917, and representing transfers from 44 original certificates aggregating 820 shares; that certificate stub 280 represents 820 shares, issued to T. H. Ingwersen, dated July 24, 1917 representing transfers from 93 original certificates aggregating 820 shares; that certificate stub 281 represents 100 shares, issued to G. D. Rogers, dated July 24, 1917, representing transfer from 17 original certificates aggregating 100 shares; that certificate stub 282 represents 825 shares, issued to William B. Traynor, dated July 24, 1917, covering transfer from 87 original certificates aggregating 825 shares; that no certificate of stock has been issued from stub 283, and that certificates from stubs 278 to 282 inclusive have been returned to the stubs and cancelled by a cancelling machine on October 7, 1920.

Counsel for the Commission then asked that the minute book of the Moultrie Packing Company from which certain exhibits had been taken be marked: "Commission's Exhibit for identification." This was done.

Mr. Smithwick then testified that the minute book of the Moultrie Packing Company marked: "Commission's Exhibit

E for identification" had been obtained by him from Swift & Company's records.

Mr. Smithwick, pursuant to subpoena, thereupon produced and identified a contract between T. E. Henderson, A. C.
148 Darling of the city of Andalusia, State of Alabama and G. F. Swift, Jr., Chicago, Illinois, to which was attached a memorandum of the obligations of the Andalusia Packing Company, May 1, 1917, which was received in as evidence and marked "Commission's Exhibit 50 and 50A." respectively.

Mr. Smithwick, pursuant to subpoena, thereupon produced and identified a paper which he testified was a guarantee from T. E. Henderson, not executed to anyone but agreeing to sell all shares of the capital stock of the Andalusia Packing Company at $70.00 per share; that this paper was taken from the files of Swift & Company February 8, 1921, as also had been Commission's Exhibit 50. (Copy of the paper was received in evidence and marked: "Commission's Exhibit 51."

Mr. Smithwick, pursuant to subpoena, thereupon produced and identified a paper signed by T. E. Henderson and A. C. Darling in the presence of William B. Traynor, which he obtained from the law department of Swift & Company February 8, 1921 after the service of Commission's subpoena, to which was attached a statement, marked: "Exhibit A" of the assets and liabilities of the Andalusia Packing Company May 1, 1917 (This paper and exhibit was received in evidence and marked: "Commission's Exhibit 52".)

Mr. Smithwick, pursuant to subpoena, thereupon produced and identified financial statement of the Moultrie Packing Company, dated April 30, 1917, and testified that it was
149 taken from the files of Swift & Company. (Statement was received in evidence and marked: "Commission's Exhibit 53")

Mr. Smithwick, pursuant to subpoena, thereupon produced a paper entitled, cattle production report summary April, 1917, and a paper entitled, hog production report April, 1917, which he testified were obtained from the files of Swift & Company, which were received in evidence and marked: "Commission's Exhibit 54", and "Commission's Exhibit 55".

Mr. Smithwick, pursuant to subpoena, thereupon produced and identified a report of W. A. Burnett, dated June 1, 1917, signed W. A. Burnett, which he testified was taken from the files of Swift & Company. (A copy of this statement was

received in evidence and marked: "Commission's Exhibit 56".)

Mr. Smithwick, pursuant to subpoena, thereupon produced and identified report of O. C. Mathies to H. J. Nelson, dated June 1, 1917, testifying that H. J. Nelson was a clerk in the employ of Swift & Company on that date; that the report was in the handwriting of Mr. Mathies and bore his signature, and that it was obtained from the files of Swift & Company. (A copy of this report was received in as evidence and marked: "Commission's Exhibit 57").

151 Federal Trade Commission
vs.
Swift & Company.
} Docket No. 453.

Atlanta, Georgia, March 2nd, 1921.
11:00 o'clock A. M.

Before:
C. T. Sadler, Examiner.

(By agreement, continued from February 23rd, 1921, 11:00 A. M., to the above date.)

Appearances:

A. N. Taylor, Esq., and E. F. Haycraft, Esq., c/o Federal Trade Commission, Washington, D. C., appearing for Commission.

A. H. and Henry Veeder, Esqs., James M. Sheehan, Esq., and Frank L. Horton, Esqs., (Mr. Horton alone being present), 76 West Monroe street, Chicago, Illinois, counsel for Respondent.

155 PROCEEDINGS.

Exam. Sadler: The hearing will come to order.

Mr. Taylor: Let the record show adjournment had from February 23rd, 1921, 11:00 o'clock A. M., to March 2nd, 1921, 11:00 A. M., by consent.

M. M. STANALAND, was thereupon called as a witness, and having been duly sworn, testified as follows:

Direct Examination.

Q. (By Mr. Taylor): Mr. Stanaland, what is your business?

A. I am principally in the jobbing business now, in the wholesale meat business, provisions, meats.

Q. How long have you been in that business?

A. About five years; from five to six years.

Q. Continuously during the five or six years last past?

A. Yes.

Q. Do you remember the date when you went into that business first?

A. What is that?

Q. Do you remember the date when you went into that business first?

A. November, 1915.

Q. Have you, during this period, had any business 156 dealings with the Moultrie Packing Company?

A. Yes.

Q. Will you please state when it was you had your first dealings with that company?

A. It was from 1915 to 1917, during 1915 to 1917 I represented them as a broker in Atlanta; I had the exclusive sale of their products here in Atlanta, in this territory at least.

Q. And do you recall the time of the year in 1915 that you commenced to represent the Moultrie Packing Company?

A. I have got some records, if you don't object, I would like to refresh my memory, I cannot remember all those dates, but I can refer to those. I can tell you more about it by consulting my records. (Witness consulting records.)

Q. Mr. Stanaland, the subpoena served upon you called upon you to produce all books of account or other records showing the accounts and kind of meat products sold by you for the account of the Moultrie Packing Company during the years 1916 and 1917; including therein the names and addresses of all customers to whom the products were sold. Is it that record which you now have?

A. Yes.

Q. The subpoena also requires you to produce all cor-

respondence between you and the Moultrie Packing Com-
157 pany from June 1st, 1917, to January 1st, 1918. Have you that correspondence or part of it?

A. Yes, I have part of it, all that has bearing on anything that—well, I have got practically all of it, to tell you the truth.

Q. Now, referring to the records which you have produced, can you state when you commenced representing the Moultrie Packing Company as a broker in Atlanta?

A. On November 1st, 1915.

Q. And will you state generally what the arrangement was which you had with the Moultrie Packing Company, under which you were to represent them as broker here?

A. Well, my arrangement with them was, that I was to be their selling agent here in Atlanta, and I as to sell direct to the retail merchants, and I was to receive as compensation, certain brokerage for my work of selling, delivering, and collecting for the products sold.

Q. Now, at this time, what was the character of the pork, if you know, that was being sold and consumed in this market?

A. Why, you mean that was sold previous to the time that I started, or what I had sold?

158 Q. Previous and up to the time when you started to sell.

A. Why, it was, as far as I know, practically all Western pork.

Q. And what was the pork that you were to sell, and subsequently did sell, for the Moultrie Packing Company—what was the character of that?

A. It was Southern pork principally, in fact practically all of it, all of it you might say at that time was soft pork. It was sold from peanuts, usually peanut fed hogs, which made the pork products very soft and oily.

Q. Now will you state just what the difference is between the Western pork and the pork which you characterize as soft or peanut fed pork?

A. Well, the Western pork is usually fed on corn, and it is hard and firm, practically all of it is hard firm pork that stands up, as a rule, better than the soft pork.

Q. Just what do you mean by "stands up"?

A. I mean that the process of deterioration does not take place as rapidly on the firm pork as it does on the soft pork, unless the soft pork is frozen. If the soft pork is frozen, why it of course stands up just like the other, at the same

time, when the soft pork comes out, why it takes the reverse back to soft pork again, just as it was before, takes prac-
159 tically the same stage that it was in, when it was put in the freezer, put under a low temperature.

Q. You mean after it is permitted to thaw out?

A. After it is permitted to thaw out, yes.

Q. Now, what would you say with regard to the flavor of the soft pork, as compared with the corn-fed pork?

A. You mean my experience?

Q. Yes, your experience and the conditions that you found in the market generally in the course of selling it, with regard to whether the public liked the flavor or not.

A. Well, there is a diversified opinion as to the flavor of it, personally I prefer it, on account of the fact that I have in fact eaten Southern pork practically all my life. That is all the pork that I have practically eaten up to the time, even coming to Atlanta; I always thought that the pork products from that were sweeter meat, that is in regard to the hams and loins, it was better in that respect.

Q. Are you referring now to the cured meat or fresh meat, or both?

A. I am referring to the fresh meat principally, and the same thing applies to the cured meat, except that the main objection to the cured meat is on account of the shrinkage, there is a good deal of shrinkage in the cured meat, and
160 as to the people, I never had a great deal of trouble in selling the oily pork at a less price than the Western pork brought, but I was never able to get as high as Western prices for Southern pork, except during certain seasons of the year, and in those seasons I was—and that season was usually about from April 1st to until, well I will say from the first through the summer months.

Q. And that was the season when you received practically the same prices for the Southern pork?

A. I received practically the same price I got at that time, received practically the same price for it as I did Western pork.

Q. And how were the differentials running during the other seasons of the year?

A. You mean how did they run?

Q. Yes.

A. They ran from about two to four cents a pound under Western prices.

Q. Did that depend upon the part of the hog, whether it was fresh meat or whether it was cured meat?

A. Well, that applied to both.

161 Q. What did control with regard as to whether it should be two cents under or greater?

A. What did control?

Q. Yes. Was it the condition of the market, or character of the meat?

A. Character of the meats; the butchers would not buy it, they would buy the Western pork in preference to the Southern pork, unless the price was cheaper.

Q. At certain times of the year?

A. At certain times of the year that was from about April 1st, why the farmers didn't have any peanuts, consequently we got pretty firm pork. It would come in in better condition, on account of its firmness, and another thing the people in Atlanta, the butchers in Atlanta, don't like frozen pork. If they can get fresh pork, they much prefer the fresh pork to the frozen pork.

Q. Was the Western pork frozen pork, they got?

A. Usually in the summer months, they have to bring it in frozen, to keep, the distance of hauling it is usually greater than it is from South Georgia, consequently they could not get it in here fresh like I could.

Q. Now, when you commenced selling this soft local

162 pork, you say that the Western pork was used almost entirely in this market?

A. Yes, sir; as far as I knew it was.

Q. Will you please state how you made these sales, whether yourself or through salesmen?

A. I sold a great deal of it myself, in fact in the beginning I was practically the only salesman that I had.

Q. You went out and canvassed the market personally?

A. Yes, sir.

Q. And talked with the customers?

A. Yes.

Q. And talked with the butchers?

A. Yes.

Q. And various people handling the pork?

A. Yes; I did that until my business grew so large until I could not handle it all myself, and after that time, why I got someone else to help me.

Q. To what class of people did you sell?

A. I sold to the butchers, principally.

Q. Now, in the course of your selling this product, did you occasionally come in contact with salesmen of other houses?

A. Yes, sir.

163 Q. Did you ever meet the salesmen of Swift & Company?

A. Yes, I met salesmen from Swift & Company.

Q. And what were they selling?

A. They were selling a Western pork, as far as I knew.

Q. And the salesmen of Swift & Company, were they trying to sell pork to the same people you were trying to sell pork to?

A. They were trying to sell pork to the same people, and did sell pork. Now all of the brokers knocked me strong when I first came into it.

Q. What do you mean by "knocked" you?

A. They called it slop-fed stuff, and they got to where, when I first came in here, why they didn't pay any attention to me, they didn't consider that I was in competition at all. They figured, well, it don't amount to anything, and it will just be a question of time until he will be out of the running.

Mr. Horton: I object to that and move to strike that out, it is only Mr. Stanaland's conclusion.

Mr. Taylor: I consent; of course, as to what he considered.

Exam. Sadler: The motion will be allowed.

Q. (By Mr. Taylor) But you occasionally did sell this soft pork at the start?

A. Oh yes, I sold soft pork right from the jump.

164 Q. Now, can you state approximately how much you sold, by referring to your books?

A. You mean from what? I don't know just what you mean there, you mean for say a year? You asked me for my records from 1916, '17, and '18, didn't you, up to the first of 1918?

Q. Yes, I think it was. Now have you the records here that will show what you did during 1915?

A. 1915?

Q. That is a portion of 1915.

A. I don't know whether I can show you; I can tell you about (witness examining his books) from June, 1916, to May, 1917, I sold $238,000.00 worth of meants, and meat products, for the Moultrie Packing Company.

Q. What kind of meats were they?

A. All pork—practically all pork products. There might

have been some beef products in that, but they were negligible, there was not enough to amount to any great thing, because the quality of beef they got down there was not very good at that time, and I did not have very much beef trade.

Q. Now, have you figures as to your sales from May, 1917, on?

Q. As long as you sold the products.

165 A. Moultrie Packing Company products?

Q. Yes.

A. Well, I have not got those figures exactly available, but I can tell approximately what they were, on account of my commissions that I received from them. They were very small.

Q. Now, have you your commissions there for the entire period that you represented the Moultrie Packing Company?

A. Yes, sir.

Q. How do they compare by months?

A. Yes, sir; by the month.

Q. Will you please state how they run, beginning at the beginning?

A. You mean by the month?

Q. By the month.

A. Well, my commissions for the month of November, which was the first month that I started, was . . .

Q. That is 1915?

A. . . . was $210.78. My commissions for December, 1915, was $296.77. My commissions for January, 1916, were, $624.10. For February, 1916, was $644.62. For March, 1916, was $633.37. For April, 1916, was $1,059.80. For May, 1916, was $538.90. For June, 1916, was $205.52. For July, 1916, was $169.23. For August, 1916, was $251.67. For September, 1916, was $197.74. Those last months were the dull months, they were practically always dull months in the pork business. Now, do you want this right on up though?

166

Q. Yes, please proceed to the end.

A. For October, 1916, was $476.19. For November, 1916, was $928.41. For December, 1916, was $800.33. For January, 1917, was $864.54. For February, 1917, was $944.38. For March, 1917, was $1,183.26. For April, 1917, was $1,198.12, and for May, 1917, was $849.24.

Mr. Horton: I object to the introduction of any more of this sort of evidence into the record, it is not tending to prove anything within the issues of this case. I cannot imagine

what the Federal Trade Commission would be interested in what Mr. Stanaland's commissions were.

Mr. Taylor: Mr. Examiner, I think it is very important to show the volume of business that was handled by this gentleman, and it has a very direct bearing upon that, and this shows in a very concrete way what he was doing.

Exam. Sadler: The objection will be noted.

Mr. Horton: I wish to further add that if counsel's proposition is well taken, the amount of commissions received
167 by Mr. Stanaland has nothing to do with it. It does not prove or tend to prove what the volume of business was.

A. (Witness continuing) I can state to you that my commissions at that time were a half-cent a pound on fresh meats, and 2½ per cent on cured meats. You might be able to arrive at approximately the amount of business I did.

Q. (By Mr. Taylor) Were the commissions uniform throughout the entire period that you have testified to?

Mr. Horton: I object to that as a leading question.

Q. And the subsequent period?

Exam. Sadler: The objection will be noted.

The witness: Shall I answer that question?

Exam. Sadler: Yes.

A. Yes, they were uniform all the way through there.

Mr. Taylor: Now will you proceed, Mr. Stanaland?

A. (Witness continuing) For June, 1917, was $484.94. For July, 1917, was $275.61. That was the time that Swift —I think it was the time that Swift took the plant over.

Mr. Horton: I object to that, and move to strike it out.

Exam. Sadler: The motion to strike will be allowed in regard to what he thinks, as to the time when Swift took over the plant.

168 Q. (By Mr. Taylor) Now what was the next month?

A. You want the next month?

Exam. Sadler: August.

A. (Witness continuing) Well, from August 1st—wait a minute now. I will have to get two months. They paid from the first to the 15th, and from the 15th to the 1st at that time, I will have to add these together, here. In August was $258.81. For September—at that time they changed my commissions, giving it to me from the 1st to the 15th, instead of by the month—for September, 1917, was $552.85. For October, 1917, was $434.91. That was all that I got from them. That was the final closing up of it—in fact, that was

all the commissions that I ever got from the Moultrie Packing Company.

Q. And did you ever sell any meats for the Moultrie Packing Company after October, 1917?

A. I don't remember. I did not receive any from them after October, 1917, I might have sold for them after that time.

Q. Some that you had previously received?

A. Some that I already had in stock. My last record seems to be—my last account is November 9th, 1917.

Q. And what was that?

A. That was a sale, that was smoked picnics.

169 Q. And do you know when you received those smoked picnics, which you sold on November 9th, 1917? I will ask you another question, which perhaps you can answer more easily, and will cover the entire situation.

A. Yes.

Q. Can you state when the last consignment of pork was received from the Moultrie Packing Company by you?

A. You said pork, didn't you?

Q. I will change that to anything.

A. I would say from either the 27th or 28th of October.

Q. And what was that a consignment of?

A. That was a consignment of pure lard.

Q. And why are you uncertain as to whether it was the 27th or 28th?

A. Well I am going by my records from the Moultrie Packing Company, which was dated on October 26th, 1917.

Q. And where was that paper, which is dated October 26th, made out, October 26th?

A. By whom was it made out?

Q. Yes.

A. Well, it is on the Moultrie Packing Company invoice, consigned invoice.

170 Q. Was that invoice made up by the Moultrie Packing Company?

A. Well, it has Swift & Company, I think, Atlanta, Swift & Company.

Q. And is dated?

A. October 26th, 1917.

Q. Do you know what the term "Swift & Company" on it means, what it refers to?

A. I do not. I don't know whether that means it was from Swift & Company down there, or whether it was to go to

Swift & Company in Atlanta. They put in some meats for Swift & Company before they withdrew the account, for me, for the Swift & Company branch here in Atlanta.

Q. What do you mean by "put in some meat?"

A. I mean they put in some stuff for Swift & Company, some beef for Swift & Company, and instructed me to notify Swift & Company, that is their branch house here, to send over and get it.

Q. You mean they put it in your car?

A. They put it in my car, yes.

Q. Did you ever get any of your consignments in a Swift car?

A. Oh yes, I have gotten some of my consignments in a Swift car.

171 Q. Now, does that notation there indicate to your mind that you either got that lard in a Swift car, or that there was a consignment to Swift in your lard car?

A. I don't remember; I don't know whether they at time put stuff—in other words, they would ship me a car, and in that car they would say, we are putting in certain products, some of it I think was beef, for Swift & Company's branch in Atlanta, and please notify them when the car arrives, so that they can get this product.

Q. And you don't remember whether it was the case in this instance?

A. In this particular instance, I do not. It has been so far back.

Q. My question was, does that notation on there indicate to your mind that either one or the other existed, either your lard was in Swift & Company's car, or that there was a consignment for Swift & Company in the car to you containing the lard? Does the quantity of lard throw any light on it to your mind?

A. I don't know that, sir. I have got a letter here from the Moultrie Packing Company stating that Swift & Company had purchased the Moultrie Packing Company,

172 previous to the date of this invoice. I cannot remember

. . .

Mr. Horton: I move to strike that out as not responsive to any question.

Exam. Sadler: The objection will be allowed.

Mr. Taylor: Now, I will ask the witness to read into the record just what the last invoice received by him does say.

That is, copy it into the record, so that the record will show, copy exactly what it is.

Mr. Horton: Why don't you put in the original?

(Witness detaching a paper from the files.)

Q. (By Mr. Taylor) Now Mr. Stanaland, what is this paper which I now show you?

A. It is a consignment invoice from the Moultrie Packing Company at Moultrie, Georgia.

Q. And did you receive any consignment invoices subsequent to this one, which I now show you?

A. You mean since that?

Q. Later than that?

A. No, I did not receive any more since that.

Q. Then, this is the last consignment invoice that you received from the Moultrie Packing Company?

A. This is the last consignment invoice I received from them.

173 Q. Of any goods whatever?

A. Yes.

Mr. Taylor: I offer in evidence the paper referred to.

(Referring to the Commission's Exhibit 58.)

Mr. Horton: May I cross examine on this exhibit?

Mr. Taylor: No objection.

Q. (By Mr. Horton) Mr. Stanaland, the quantity of lard specified in the invoice is two tierces of pure plan lard. What is plan lard, what does that refer to?

A. I don't know.

Q. Do you know whether or not that referred to a brand of the Moultrie Packing Company?

A. I think "Plantation" Brand. I had forgotten that. It refers to the "Plantation" Brand. I could not think of what that referred to there at the time, that was the name of their lard.

Q. It says two tierces in one place, and 20 pounds in another.

A. Fifty 20-pound buckets.

Q. Fifty 20-pounds buckets?

A. Yes, 50 20-pound buckets.

Q. Would you call that a small consignment or a large consignment?

174 A. Very small consignment, in fact that is really not a carload.

Q. Well, do you get a better freight rate when you ship a carload?

A. Oh yes.

Q. And it is desirable to send in carload lots if possible?

A. Always, minimum car or above, if possible, not less than a minimum car.

Q. You think the purpose of putting Swift's on here is that this lard came in to you, in one of Swift's cars, or Swift had some lard for them in your car, in this car?

A. I don't remember.

Q. But it would be either one or the other, would it?

A. I don't remember ever getting any lard, that is out of one of the cars shipped to Swift & Company's branch house in Atlanta. I don't remember getting any lard that way.

Q. Did you get any other products?

A. No, sir, no other products that way, not after Swift & Company took it over.

Mr. Horton: Well, I wish to object to the exhibit, on the ground, first, because it is the last invoice, does not make it admissible; second, because the words "Swift & Company" on there has nothing to do with anything other than pos-
175 sibly the month of shipment, and therefore it is immaterial to the issues, and does not prove anything.

Exam. Sadler: The objection will be noted, and the invoice will be received as evidence, and marked "Commission's Exhibit No. 58."

(The document referred to was thereupon received as evidence, and marked Commission's Exhibit No. 58.)

Q. (By Mr. Taylor) Mr. Stanaland, did you find that there was a good demand for this local pork referred to, as soft pork?

A. Yes.

Q. And will you state what your experience was with regard to selling it, with regard to whether or not you could get as much as you could sell, and whether or not there was a greater supply than you could sell.

A. I was never able to get as much as I could sell through the summer months.

Q. State fully what your experience was with regard to selling it how you found the market and the demand.

A. Well, it was a very good proposition for me, with the Moultrie Packing Company; I had created quite a demand for the pork against very strong opposition after I had developed the sale of the pork in Atlanta, and I made quite a nice business out of it.

176 Q. Well, did you find that when you sold it to a customer, that that customer usually bought again?

A. Oh yes, I had regular customers. I had among the biggest trade in Atlanta on it, but I always had to sell it for less than the Western pork prices, except at certain seasons of the year.

Q. Do you know whether the trade that you sold to were also handling Western pork?

A. They had handled Western pork previous to the time that I sold this Moultrie pork.

Q. Did they continue to handle Western pork while they were getting your Moultrie pork?

A. As long as I could get it, they continued to handle it.

Q. Can you state generally or at all approximately, what proportions they handled of Moultrie pork, and of the Western pork?

A. I had customers that handled very little Western pork, when they could get the Moultrie pork—pork made by the Moultrie Packing Company. I also had some customers that would not handle the Moultrie pork at all, they didn't want to handle soft pork, prices didn't make any difference with them one way or the other.

177 Q. Now, where were these customers of yours?

A. My biggest customers were in the uptown markets.

Q. Were they all in the city of Atlanta?

A. Yes, practically all of them were in the city of Atlanta. I shipped very little stuff out of Atlanta.

Q. Can you state about how many customers you had?

A. I can state approximately; I could not tell you exactly.

Q. Can you, by looking over your books, state who the principal customers were in Atlanta to whom you sold?

A. Yes. (Witness examining books) S. Ableman—do you want me to call over these?

Q. Yes.

A. S. Ableman, 197 Decatur street; he did not buy any fresh pork, he bought principally lard. You merely want the prinipal or the bigger customers, do you?

Q. Yes.

A. Well, the A. B. & A. Railroad there.

Q. About when did they stop buying?

A. The A. B. & A. Railroad? Well, the last bill I sold the A. B. & A. Railroad was on April 16th, 1917, that business was gotten by bids from the A. B. & A. Railroad, they would

send out and ask for bids on certain products, on a cer-
178 tain date, and they were competitive bids. We filed our bids on a certain day.

Q. Can you state from your books there what you sold them?

A. You mean the kind of products we sold?

Q. Yes.

A. Yes; unforunately I left that other book down there. I have got it from May, the 21st. I can tell you most any other kind of products, from May 21st, but I haven't got that.

Q. Did you sell them various products?

A. Wait a minute. I can give you some products. No, I cannot give you products, previous to that time, because I haven't got the books on it. I can get the book down there, I thought I had it with me. Well, I can tell you in a general way, what it was.

Q. Can you state in a general way what kind of products that you sold to the A. B. & A. Railroad, from your recollection?

A. Dry salt meat and lard, that is the principal products that I sold them. No, dry salt meat, lard, and smoked meat.

Q. Now, will you please state the names of some of your other principal customers?

A. Beuler Brothers, 114 Whitehall, was another principal customer.

179 Q. When did they buy last?

A. October 27th, 1917.

Q. What year?

A. October 27th, 1917.

Q. And did the sales keep up, up to that time?

A. What do you mean?

Q. I mean how did they run, about as they had previously, or had fallen off?

A. About as previously. The last bill they paid me was on November 2nd, was $300.65.

Q. How had their bills been running before that?

A. About the same, they varied more or less, right around two or $300.00 a week.

Q. Two or three hundred dollars a week?

A. Something like that, sometimes run small, and sometimes larger than that. Run smaller than that in the summer, because I could not get the products.

Q. What was the character of meat that you sold them?

A. What was that?

Q. What was the character of meat that you sold to them?
A. You mean whether fresh or cured meats?
Q. Yes; lard or what?
180 A. Well, it was practically all of the products. The last invoice here was fresh meat. The next invoice was pure lard.
Q. I think that is sufficient in regard to that. Now, will you state some of your other principal customers?
A. Well, J. H. Bullock was another, at 9 West Mitchell street.
Q. And what character of goods did you sell to him?
A. Fresh meats, cured meats and lard, practically the whole line.
Q. And when was the last sale?
A. On October 26th, 1917.
Q. About how did these sales run up to that time?
A. Well they run, the last week that they paid me, ran $193.18. They ran around—depended on the season, as to what they bought. In the winter months, their bills maybe ran from $150.00 to $200.00 every week.
Q. They had been buying every week, had they, just previous to this?
A. Yes.
Q. Up to that time?
A. Yes, they were regular customers of mine. Do you want any more of them?
Q. Yes.
181 A. Well, Campbell Brothers, 77 Decatur street, was another customer of mine.
Q. What did you sell them?
A. Well, practically the whole line, but principally fresh meat.
Q. When was your last sale there?
A. The last item I sold Campbell Brothers was on November 6th, 1917.
Q. And can you state there from your records, how the account had been running up to that time, had there been any appreciable falling off, or had it kept up?
A. No, there was practically no difference, they ran about the same all the time along there, he was a regular customer of mine.
Q. About how much a week would they run?
A. Well, it is a little hard to arrive at just how much a week it would run. They had, and still have, two places here

in Atlanta, and previous to that time, both places had been paying me cash, but towards the last, I ran an open account. They did not ask for credit, they were all right, but I ran an open account with the store at 77 Decatur street, and the other stuff at 150 Marietta street, went out for C. O. D., cash,
182 and I ran my cash items separate from my charge items, it is right hard to arrive at just what each one of them bought, I mean what the total would be for both of them.

Q. Can you state what your C. O. D. items were there?

A. Yes, they ran about $150.00 a week.

Q. And, can you state from your book how the other items ran?

A. Oh, I thought you meant—well, the cash items, that is right. The cash items, and the other ran about the same thing; they would run right around practically $100.00 to $150.00 a week, from each one of them.

Q. So it would aggregate from $200.00 to $300.00 a week, each one of them?

A. Yes, they were pretty good buyers.

Q. Now, can you state the name of another one of your principal buyers?

A. Yes, the Capital City Grocery Company, 149 Decatur street. They were at 149 Decatur street at that time, they moved over on Peters street, since that time.

Q. And when was their last purchase?

A. October 31st, 1917.

Q. And, how do the accounts run with the Capital City Grocery Company?

A. Well, they are about the only thing they bought
183 was lard, they ran from—it averaged from $50.00 to $100.00—wait a minute—it ran from $125, to $260.00 per month. That account ran by the month.

Q. Was there any appreciable falling off before the last purchase?

A. Well, the last purchase was on October 31st, 1917, they were always mighty good customers up to that time. In fact, I always had a god demand on the....

Q. Had not been any appreciable dimunition in the volume of your trade up to that time, or just before that?

A. Not when I could get the products.

Q. Now, have you another customer there?

A. John G. Cato, who was then at 32 Walton street, bought from me quite a good deal.

Q. And when was his last purchase?

A. November 8th, 1917, and

Q. And how did that account run?

A. From $50.00 to $300.00 per week. It ran as high as $300.00 there, in some places—there is $342.00, and sometimes it would drop off; well it dropped off during the summer months, they all dropped off during the summer months.

Q. And during the last three months, how did that run?

184 A. During the last three months?

Q. Yes, September, October, and November.

A. Well, in November, you see, I didn't have any stock along there in November. There is September—September, 1917, was $243.85 for the month. October was $278.69, and on November 8th, it was $26.00, that was the last charge.

Q. Why didn't you sell him any more in November?

A. Mr. Horton: I object to that, it call for a conclusion of the witness.

Mr. Taylor: I withdraw the question.

Q. (By Mr. Taylor.) Could you have sold Mr. Cato any more of the same class of goods in November, than the amount you did sell him?

A. Yes.

Mr. Horton: I object to that as calling for a conclusion of the witness, and move to strike out the answer.

Exam. Sadler: The objection will be noted, and the motion to strike will be noted.

Q. (By Mr. Taylor.) Will you please state the situation with regard to the marketability of that class of pork, during the month of November?

A. What do you mean?

185 Q. What was the state of the market?

A. During November, 1917?

Q. Yes, during 1917.

A. You mean what prices prevailed at that time?

Q. No, I mean was there a market for it.

A. Was there a market for it?

Q. Yes.

A. Yes, there was a market for it.

Q. Why didn't you sell it?

Mr. Horton: I object to that, and the answer could only a conclusion of the witness.

Exam. Sadler: The objection will be noted.

A. Because I could not get it.

Q. Did you have calls for it?

A. Yes.
Q. Your customers were calling for it?
A. Yes.
Q. Wanted it. Did you try to get it?
A. Why, I don't know that I tried to get it, because they knew that I didn't have it, they knew that I didn't represent any Southern plant at that time. In fact I didn't represent any plant.

186 Q. Now Mr. Stanaland, can you state about how many regular customers you had for this class of goods?
A. Why, I should say....
Q. I am referring now, to the latter part of the year 1916, and the summer and fall of 1917.
A. I had, I should say, approximately 150 to 200 customers, and they were principally the larger buyers of fresh meat.
Q. And principally retailers?
A. Principally retailers; yes.
Q. Did you have any hotel trade?
A. Very little hotel trade.
Q. Restaurant trade?
A. Very little restaurant trade. I didn't cater to the restaurant and hotel trade, on acount of having to break cases. They bought small quantities, and it was necessary to break cases, and I didn't try to sell them on that account.
Q. Now, did you receive any notice from anybody of any change of interest or in the ownership of the Moultrie Packing Company at any time?
A. Yes.
Q. When did you receive such notice first?

187 A. You mean that there actually was a change? Or do you mean that they were contemplating a change?
Q. That there was any change at all in the interest?
A. Yes, on October 22nd, well, I received a letter—
Q. Just a minute—didn't you receive any notice, or weren't you informed, in any way of anything happening, prior to October 22nd?
A. Why yes, I received some letters from the Moultrie Packing Company in regard to some stock that I had down there; they wanted to buy the stock that I had.
Q. And when was that?
A. On May 22nd.
Q. And by "stock," you refer to corporate stock?

A. What is that?

Q. And by "stock," you refer to corporate stock of the Moultrie Packing Company?

A. Yes.

Q. Let me see the letter, please.

A. (Witness producing letter and handing same to counsel.)

Q. Is this the letter which I now show you?

A. Yes.

Q. And that letter was received by you through the mails?

A. Yes.

188 Q. When?

A. Why, I suppose the letter is dated May 22nd, 1917, and it must have been received about the 23rd, not later than the 24th.

Mr. Taylor: I offer this letter in evidence.

Mr. Horton: I object to the letter offered in evidence, on the ground it is a letter from Mr. Vareen to Mr. Stanaland, and any statements made by Mr. Vareen, would not be taken as an admission of the respondent or can in any way prejudice or bind the respondent. Further, the letter refers to a "Western packer," or to a number of Western packers, it is not shown in any way that the respondent is referred to.

Mr. Taylor: I think all that Mr. Horton says is so, but, nevertheless, it shows what was going on, and shows the first notice that Mr. Stanaland had of the fact that there was to be a change in the ownership of the stock, and for that purpose I offer the letter.

Mr. Horton: That is quite true, but there is nothing to connect the respondent with it, and it should not be received as evidence against the respondent.

Exam. Sadler: The objection will be noted, and the letter will be received as evidence, and marked Commission's

189 Exhibit No. 59.

(The letter referred to was thereupon received in evidence, and was marked Commission's Exhibit No. 59.)

Exam. Sadler: We will recess until 2:00 o'clock P. M.

(Whereupon, at 12:30 o'clock P. M., the hearing recessed until 2:00 o'clock P. M.)

After Recess

2:00 o'clock P. M.

Exam. Sadler: The hearing will come to order.

Mr. Taylor: I wish to withdraw Mr. Stanaland from the witness stand at the present ,and call Mr. Simmons, who lives out of the city, and who desires to catch a train back this afternoon.

Exam. Sadler: Any objection on the part of counsel for the respondent?

Mr. Horton: None whatever, we will be glad to accommodate counsel and Mr. Simmons.

S. L. SIMMONS, was thereupon called as a witness, and having been duly sworn, testified as follows:

Direct Examination.

Q. (By Mr. Taylor) Where do you live, Mr. Simmons?
A. Columbus, Georgia.

190 S. L. SIMMONS called as a witness for the Commission at Atlanta, Ga., after having been duly sworn, testified in substance as follows:

(Pages 153-194)

That he was a retail grocery and meat dealer and also a manufacturer of sausage at Columbups, Georgia, a town of about 25,000 inhabitants; that he had had dealings with the Andalusia Packing Company during 1916 and 1917; having purchased such products as spare ribs, neck bones, tails, ears, trimmings of pigs, whole pigs and pork trimmings to be used principally in the manufacture of sausage, identified invoices of the Andalusia Packing Company, marked: "Commission's Exhibit 60 and 61;" that some time early in the fall of 1917 he received notice that Swift & Co. had purchased the Andalusia plant and that thereafter he should make his purchases from Swift & Co., which he did; that very few purchases had been made from Swift & Co. during 1916 and 1917, the earliest purchase having been made on May 12, 1917; that in October 1917, he had purchased what he believed to be a Georgia pork ham from Swift & Co., identified invoices from Swift & Co., marked Commission's Exhibit 62 to 65

inclusive, also identified letter from the Andalusia Packing Company, dated April 14, 1917, Commission's Exhibit 66:

191 that during 1916 and 1917 packers represented in Columbus, Georgia, were Morris & Company, Armour & Company, Swift & Company, Wilson & Company, Inc., Kingan & Company, and a local packing company known as the Columbus Packing Company; that the bulk of his meats were bought on the hoof and slaughtered by himself.

Upon cross-examination Mr. Simmons testified in substance as follows:

That his purchases from wholesale meat dealers has averaged from $600.00 to $700.00 per week. Of this amount about $150.00 a week was for pork products. That figure included pork which he bought and slaughtered himself. Omitting what he slaughtered himself his purchase of pork products averaged from $30.00 to $50.00 per week. He had not bought as much as $25.00 worth of pork stuff from Swift & Company for two years.

192 V. J. HENDRIX was called as a witness for the Commission on March 2, 1921, and after having been first duly sworn, testified in substance as follows (pp. 195-213):

That he was engaged in the butcher, retail grocery and meat business with the firm of Williams and Johnston in Atanta, Georgia, since 1912; that beginning about January, 1915, he began to purchase soft or local pork products from M. M. Stanaland and J. W. Clark Company; that this meat was slaughtered at Moultrie, Georgia, and Andalusia, Alabama; that he purchased this meat from them as long as he could get it; he could not remember the exact date, that he was unable to purchase it from those people; that the large percentage of his customers liker the soft Georgia pork or peanut-fed pork; that after Mr. Stanaland and the Clark Company discontinued handling this class of pork he was able to purchase it from Swift & Company, but that he had to pay as much for it as he paid for Western pork loins; that while he was purchasing from Mr. Stanaland and the Clark Company he was able to purchase soft pork at prices less than fresh Western pork.

Upon cross-examination Mr. Hendrix testified in substance as follows:

That he could not produce a single bill or record or data in books or invoices showing the price or kind of pork he purchased. He did not specify the kind of pork he wanted when he purchased it.

193 M. M. STANALAND. was thereupon recalled for further direct examination, and testified as follows:

Direct Examination.

Q. (By Mr. Taylor) Mr. Stanaland, what is this paper that I hand you? (Handing witness a paper.)

A. This is a letter from W. C. Vareen, president of the Moultrie Packing Company.

Q. And relating to the same stock owned by you, which was referred to?

A. What is that?

Q. And relating to the same stock owned by you which was referred to in this letter of May 22nd, which was received as Exhibit No. 59?

A. Yes.

Q. Now, do you know if that stock was afterwards actually sold?

A. Actually sold?

Q. Yes, did you receive the money from the transaction?

194 A. Yes, I suppose it was sold, I don't know; I got the money for it.

Q. You got the money for it?

A. Yes.

Mr. Taylor: I offer this letter in evidence. (Handing letter to the counsel for respondent.)

Mr. Horton: I object to the letter being received in evidence. First, upon the ground that it is evidently a letter from Mr. Vareen, as president of the bank, and not as president of the packing company; second, that it is a declaration by Mr. Vareen of a transaction between him and Mr. Stanaland, and should not be used in evidence in connection with and against this respondent.

Mr. Taylor: Mr. Examiner, I think the letter, on the face of it, answers the objection of counsel for the respondent. (Handing letter to the Examiner.)

Exam. Sadler: The letter will be received as evidence, and marked Commission's Exhibit No. 67.

(The letter referred to was thereupon received in evidence and marked Commission's Exhibit No. 67.)

Q. (By Mr. Taylor.) What is this paper which I now hand you? (Handing witness a paper.)

195 A. What about it?

Q. What is it?

A. Why, it is a letter from the Moultrie Packing Company, signed by Mr. Wallow.

Q. And the initials?

A. Well, it looks like it is C. W., as well as I recall, it has been some little time—it is C. H. Wallow.

Q. Did you know Mr. Wallow?

A. Why, Mr. Wallow, it developed afterwards, was a man who was working for Swift & Company. He had charge of the office, I suppose, of Swift & Company.

Mr. Horton: I object to that answer as not being responsive to the question.

The Witness: He asked me who Mr. Wallow was.

Exam. Sadler: The objection will be noted.

Q. (By Mr. Taylor.) Do you know what Mr. Wallow's relations with the Moultrie Packing Company were at the time this letter was written, and for some time subsequent?

A. Well, he was never with the Moultrie Packing Company, to my knowledge, until after Swift & Company bought the Moultrie Packing Company.

Mr. Horton: I object to that statement, there is noth-
196 ing in this record, so far, to show that Swift & Company did buy it.

Exam. Sadler: The objection will be noted.

Mr. Taylor: I offer the letter in evidence. (Handing letter to respondent's counsel.)

Mr. Horton: We object upon the ground that the letter, on its face, shows that it is from the Moultrie Packing Company to Mr. Stanaland, and this is referring to certain accounts, what accounts it is not clear. It is immaterial and irrelevant to the issues in this case.

Exam. Sadler: The objections will be noted and the letter will be received as evidence and marked Commission's Exhibit No. 68.

(The letter referred to was thereupon received as evidence and marked Commission's Exhibit No. 68.)

Q. (By Mr. Taylor.) What is this paper which I now hand you, Mr. Stanaland? (Handing witness a paper.)

A. That is a copy of a letter that I wrote to the Moultrie Packing Company.

Q. Wrote and mailed that to the Moultrie Packing Company about that date?

A. Yes, that is an exact copy of a letter that I wrote
197 them. I wrote the letter myself.

Mr. Taylor: I offer this copy in evidence. (Handing letter to counsel for respondent.)

Mr. Horton: We object, first, upon the ground that it is a copy; second, upon the ground that it is a mere self-serving declaration of this witness, not germane to the issue.

Mr. Taylor: Mr. Horton, will you produce the original of this letter from the files of the Moultrie company?

Mr. Horton: We haven't got it.

Mr. Taylor: You mean the Moultrie Packing Company has not got the original?

Mr. Horton: I don't know if they have, I have never been through their files.

Mr. Taylor: Do you know who is in charge of the files of the Moultrie Packing Company at the present time?

Mr. Horton: You are asking me now on the record, or off?

Mr. Taylor: On the record, yes.

Mr. Horton: The manager of the Moultrie Packing Company, at the present time, I do not know. I do not know whether that corporation or company is in existence or not.

Mr. Taylor: I asked you if you knew who was in charge of the Moultrie Packing Company.

198 Mr. Horton: Who has the old files of the Moultrie Packing Company I don't know.

Mr. Taylor: Can you tell me who does know?

Mr. Horton: It is possible that Mr. Vareen might know. It is possible that several other people might know.

Mr. Taylor: Mr. Examiner, there is an objection here to this copy of the letter on the ground that it is not the original; it is manifest that the original was sent to the Moultrie Packing Company, and if it is not destroyed, it is now in their files, and I am making these inquiries for the purpose of ascertaining who is the proper party to subpoena to produce the original.

(Addressing Mr. Horton) Are you able to state, Mr. Horton, whether these account books of account, papers, letters, and records of the Moultrie Packing Company were retained

by Mr. Vareen, or whether they were left in the office of the Moultrie Packing Company?

Mr. Horton: If you will subpoena me, Mr. Taylor, I will get on the stand and testify.

Mr. Taylor: Will you state whether or not you have the information that I have just asked regarding it?

Mr. Horton: I said before, if you will subpoena me, 199 I will testify.

Mr. Taylor: But you decline, without being subpoenaed, to state whether or not you know where these papers are?

Mr. Horton: Well, the truth of the matter is that I have not sufficient information to give you a good answer. You are referring now to that particular letter, I don't know where it is.

Mr. Taylor: No, I presume you don't know where this particular letter is. I have no doubt you don't.

Mr. Taylor: Mr. Examiner, I offer this copy in evidence, and I will state that we will proceed to subpoena the original from—we will endeavor to subpoena the original letter from the files of the Moultrie Packing Company.

Exam. Sadler: Same objection?

Mr. Horton: We again renew and repeat our objection.

Exam. Sadler: The admittance of the letter as evidence will be reserved until a later period.

Mr. Taylor: May I ask that the letter be marked for identification?

(The paper referred to was thereupon marked for identification, the letter F.) (Ex. 106.)

Q. (By Exam. Sadler): Mr. Stanaland, you stated on the record that this is an exact copy of a letter that you 200 sent to the Moultrie Packing Company?

A. To the Moultrie Packing Company, yes.

Q. (By Mr. Taylor): Now, it is a carbon copy of the original letter, is it not, Mr. Stanaland?

A. It is a carbon copy of the original letter.

Q. It has been retained in your files from the time the original letter was mailed until the present time?

A. Yes, sir.

Q. Until it was produced here pursuant to subpoena?

A. How?

Q. Until it was produced here pursuant to subpoena?

A. Yes; yes, sir; I wrote it. I wrote all my letters at that time myself.

Q. Mr. Stanaland, what is this paper which I now hand you? (Handing witness paper.)

A. That is a carbon copy of a letter that I wrote to the Moultrie Packing Company, Moultrie, Georgia, on October 13th, 1917.

Q. You wrote and mailed the original of that letter to the Moultrie Packing Company?

A. I wrote that letter to Moultrie, Georgia.

Q. On the date that this bears, October 13th, 1917?

201 A. Yes.

Q. And where has this carbon copy been kept?

A. It has been in my files.

Q. Until it was produced here pursuant to subpoena?

A. Yes.

Mr. Taylor: I offer in evidence the copy of the letter dated October 13th, 1917.

Mr. Horton: We object; first, on the ground that it is a carbon copy and proper presumption of receipt thereof by the Moultrie Packing Company is not explained; second, that it is a mere self-serving declaration of Mr. Stanaland's, and is not germane to the issues in this case.

Exam. Sadler: Do you object because it is a copy, the original not being produced?

Mr. Horton: Yes.

Exam. Sadler: The ruling on this letter will be the same as in the former case, and it will be marked Exhibit G for identification.

(The letter referred to was thereupon marked Exhibit G, for identification. Ex. 107.

Q. (By Mr. Taylor): Mr. Stanaland, what is this paper which I now hand you?

202 A. One side is a carbon copy, the other side is a circular letter.

Q. Disregarding the circular letter, please refer to the copy of the letter dated October 20th, 1917.

A. Really it is not pertaining to the record of that letter at all, just used that for a copy instead of yellow sheets. Well, that is another copy of a letter to the Moultrie Packing Company, Moultrie, Georgia.

Q. That you wrote and mailed to the Moultrie Packing Company?

A. It is a carbon copy that I wrote and mailed to the Moultrie Packing Company, Moultrie, Georgia.

Q. And where did this carbon copy come from?

A. Come out of my files.

Q. It has been kept there since October 20th, 1917, up to the time that it was produced here, pursuant to subpoena?

A. Approximately that date, it was filed along about that time, but it has been in my files.

Mr. Taylor: I offer that in evidence. (Handing paper to counsel for respondent.)

Mr. Horton: We object, first, on the ground that it is a carbon copy; second, on the ground that the necessary facts to raise the presumption of receipt thereof by the Moultrie Packing Company is not shown; third, it is a mere self-
203 serving declaration on the part of Mr. Stanaland, relating to a transaction between him and the Moultrie Packing Company, and in no way relates to this respondent, nor is it germane to the issue.

Exam. Sadler: The same ruling on this letter as on the previous two letters, and it will be marked the letter H, for identification.

(The letter referred to was thereupon marked Exhibit H, for identification.) Ex 108.

Q. (By Mr. Taylor) Now, Mr. Stanaland, do you recall the circumstances which lead you to write these two letters, marked G and H, for identification, (handing witness the papers)?

A. Why yes, I recall the circumstances all right; competition was getting pretty had on the same products.

Q. Well, please state what you mean "competition was getting pretty hard."

A. Competition, I mean this—that while I had not been advised of it officially, I had every reason in the world to.—

Mr. Horton: Now, I object to what the witness had every reason in the world to think or believe, or whatever he is going to say.

Exam. Sadler: The objection will be noted.

204 Q. (By Mr. Taylor) Please state what facts you know. You were at that time selling fresh meats, were you not, fresh pork?

A. Let me have my other letters there, and I can tell you. You have got some other letters there, you have got some more letters there in that file. (Witness examining papers.)

Q. Is this the one you are referring to? (Referring to Commission's Exhibit No. 67.)

A. Yes, why I had reasons to believe that Swift & Company—

Mr. Horton: I move to strike that out, what the witness had reason to believe.

Q. (By Mr. Taylor) I show you Exhibit No. 67.

Mr. Horton: Let us get a ruling on that. I move to strike that out.

Exam. Sadler: The objection will be noted. The motion to strike will be noted.

Q. (By Mr. Taylor) I show you Exhibit No. 67.

A. I had a letter previous to that time, advising me that the plant would be—

Mr. Horton: I object to that answer, unless it is shown who the letter was from, and what it contained, and the date of it.

Mr. Taylor: The letter is Exhibit No. 67, which the witness now has before him.

205 Exam. Sadler: The objection will be noted.

A. (Witness continuing)—that Swift & Company owned the plant, the Moultrie Packing Plant.

Mr. Horton: I move to strike out the answer, Mr. Examiner, on the ground that it is not shown who wrote the letter advising the witness that Swift & Company owned the Moultrie plant. There is no time stated.

Mr. Taylor: The letter is in evidence, Mr. Examiner, it is No. 67.

Mr. Horton: That is a conclusion of counsel, he does not know what the witness is referring to.

Exam. Sadler: Is the witness referring to No. 67 or No. 57?

The Witness: I was referring to this Exhibit No. 67.

Mr. Horton: I renew my objection, because upon examination of Exhibit 67, it does not show that Swift & Company bought the plant.

The Witness: It infers that Swift & Company bought the plant.

Mr. Horton: I object to any inferences or, if it does say so, it would not be true at that time or any other time.

Mr. Taylor: The exhibit, Mr. Examiner, stated—"Replying to your favor of the 15th instant, will say that your stock certificate has been received by Moultrie Packing Com-

206 pany, and will be forwarded with all other stock certificates in a few days to Chicago for collection. As soon as remittance is received, bank will forward you check. Whenever the time comes, I shall, of course, take pleasure in writing you the lettter which I advised you I would write. It is

probable that we will not turn over the plant to Swift & Company for possibly ten days, yet. Some of their men are already here. Our advice is that they expect to continue our present selling arrangements for an indefinite period. Will keep you posted as to developments." This letter is dated June 18th. Now, after the receipt of this letter of June 18th, and before writing the two letters here referred to, marked G, and H, for identification, did you receive the money agreed upon in payment for your stock, which had been forwarded to Mr. Vareen?

Exam. Sadler: Just a second, I would like to make a ruling on Mr. Horton's objection, that the motion to strike be denied. Go ahead and answer the question.

The Witness: What was the question, then?

Q. (By Mr. Taylor) Did you get your money for this stock before you wrote those letters?

A. Let me have those letters. (Counsel handling letters to witness.) There was a letter in there from the bank.

207 Mr. Taylor: That is not here.

The Witness: What is the date of those letters?

Mr. Taylor: October 13th, and October 20th.

A. (Witness continuing) Yes, I had gotten my money for my stock.

Q. Well now, will you proceed to state what the circumstances were that lead up to your writing those two letters?

A. The branch of Swift & Company was selling the same pork that I was selling here at the time, that is the Moultrie pork, or pork from the Moultrie Packing Company, and we were in competition with each other on the same commodity.

Q. Were you receiving that pork under instructions to sell it at any given price?

A. Yes, I had a price list.

Q. And was there any difference between the price you were instructed to sell it at, and the price that Swift & Company was selling it at?

A. Well, I don't know just whether there was or not, I could not say positively, because of course the only thing that I could say was that what I was finding in my trade. My trade, I had been handling this pork all the time, refused to buy from me, because they stated that they were getting

208 a better price from the branch house of Swift & Company.

Q. And was it that condition that caused you to write these letters of October 13th . . .

A. Yes.

Q. . . . and October 20th?
A. Yes, sir.
Q. And these . . .
Mr. Horton: I move to strike out that answer because it calls for a conclusion of the witness, and it is not germane to the issues.
Exam. Sadler: The motion to strike will be noted.
Q. (By Mr. Taylor) When did you first begin to receive instructions from the Moultrie Packing Company as to prices at which you were to sell the products?
A. I received price lists every week from them as a rule, all the time along there.
Q. All the way along?
A. Yes.
Q. And were there any instructions attending that price list?
A. Well, I was not supposed to cut the price—well, the latter part of the time, they held me very rigidly to it.
Q. Now, just when do you refer to by the "latter part
209 of the time"?
A. Well, along in say from July, August, and September, and along there in those times, they are in fact the latter part of the time in which I had their products.
Q. That is in 1917?
A. 1917.
Q. Now, this letter, Exhibit H, dated October 20th, do you know how long it would take that in ordinary course to reach Moultrie through the mails?
A. You mean to say Exhibit H?
Q. Yes.
A. On October 20th?
Q. Yes.
A. Well, that letter mailed October 20th, would leave here on the train which should reach Moultrie the next morning about seven or eight o'clock the following morning.
Q. Now, I show you here paper dated October 20th, 1917, will you state what that is? (Handing witness paper.)
A. Dated October 22nd?
Q. October 22nd, pardon me.
A. Well, that is a letter from Moultrie Packing Company, written by F. A. Luchsinger. It is only got his initials.
210 Q. That letter was received by you in due course through the mails?
A. Yes, sir.

Q. Mr. Taylor: I offer the letter in evidence. (Handing letter to counsel for respondent.)

Mr. Horton: Well, I object to the letter on the ground that it is a letter from the Moultrie Packing Company; it is a self-serving declaration of that company, and the statements in there should not be taken or used as evidence against the respondent; and also the fact that the letter was written before the assets were taken over by the respondent.

Exam. Sadler: The objection will be noted, and the letter received as evidence, and marked Commission's Exhibit No. 69.

(The letter referred to was thereupon received as evidence and was marked Commissions' Exhibit No. 69.)

Q. (By Mr. Taylor) Did you reply to that letter of October 22nd, which is received here as Exhibit No. 69?

A. Yes, I replied to it.

Q. Is this a copy of your reply, which I now hand you? (Handing witness a paper.)

A. Yes, sir.

Q. Is that a carbon copy of the original letter?

A. That is an exact carbon of it, I wrote that myself.

211 Q. And the original letter was mailed to?

A. Mailed to—well, it was mailed to the Moultrie Packing Company, Moultrie, Georgia, I don't know whether I put the name Luchsinger on the upper part of it there or not.

Q. And where has this copy been kept?

A. In my files in my office.

Q. Until it was produced here, pursuant to subpoena?

A. Until it was produced here.

Mr. Taylor: I offer the copy in evidence.

Mr. Horton: Well, we object on the ground that it is a copy; and second, that it is a hearsay statement by Mr. Stanaland, and not germane to the issues in this case; that the facts necessary to show a presumption of its receipt by the Moultrie Packing Company through the mails has not been shown.

Exam. Sadler: The same ruling will be on this letter as on Exhibits identification F, G, and H, and the letter will be marked for identification the letter I.

(The letter referred to was thereupon marked I, for identification.) (Ex. 102.)

Q. By. Mr. Taylor) What is this paper which I now show you, Mr. Stanaland? (Handing witness a paper.)

A. Well, that is a copy of a letter written to Mr.
212 Vareen, president of the Moultrie Packing Company, Moultrie, Georgia, on January 20th, 1917.

Q. And mailed to them?

A. Yes.

Q. And is this a carbon copy of the original letter?

A. Yes, that is an exact carbon copy of the original.

Q. And where has this copy been kept?

A. It has been kept in my files.

Q. Up to the time that it was produced here pursuant to subpoena?

A. Yes.

Mr. Taylor: It is offered in evidence. (Handing letter to counsel for respondent.)

Mr. Horton: We object, first, because it is a carbon copy; second, it is from Mr. Stanaland to Mr. Vareen, not connected in any way with the respondent, and third, because it is hearsay; and fourth, because it is long prior to any time in which this respondent is alleged to have had anything to do with the Moultrie Packing Company.

Exam. Sadler: The same ruling as on other letters marked for identification, and this letter will be marked for identification, the letter J.

213 (The letter referred to was thereupon marked Exhibit J, for identification.)

Q. (By Mr. Taylor) Did you receive a reply to that letter? Mr. Stanaland?

A. I don't recall whether I did or not.

Q. I show you a paper—that refresh your recollection? (Handing witness a paper.)

A. Yes, that is a reply to it here.

Q. Then, what is that?

A. That is a letter from W. C. Vareen, president of the Moultrie Packing Company, to me . . .

Mr. Taylor: I offer that in evidence.

A. (Witness continuing) . . . that is a reply to that letter.

(Mr. Taylor handing letter to counsel for respondent.)

Mr. Horton: I object, because this is long prior to the time that it is even alleged that the respondent had anything to do with the Moultrie Packing Company; second, that it is all hearsay, and has nothing to do with the issues here.

Exam. Sadler: The objection will be noted, and the letter will be received as evidence, and marked Commission's Exhibit No. 70.

(The letter referred to was thereupon received as
214 evidence and marked Commission's Exhibit No. 70.)

Exam. Sadler: We will take a recess until 10:00 o'clock A. M., March 3rd, 1921.

(Whereupon, at 5:00 o'clock P. M., the hearing was adjourned until 10.00 o'clock A. M., the following morning, March 3rd, 1921.)

215 Morning Session.

Atlanta, Georgia, March 3, 1921.

10:00 o'clock A. M.

(Met pursuant to adjournment, all parties being present.)

Exam. Sadler: The hearing will come to order.

M. M. STANALAND, being recalled to the stand for further direct examination, testified as follows:

Direct Examination.

Q. (By Mr. Taylor) Mr. Stanaland, going back to the spring and early summer of 1917, do you remember whether you had a good market for local pork?

A. Yes, I had a good market.

Q. Able to sell all that you could get of it?

A. Well, I cannot say that I was able to sell all that I could get in the early spring—yes, that was true, I was able to sell all that I could get in the early spring.

Q. Now, did you call attention of that fact to the Moultrie Packing Company?

A. At what time? In the spring?

Q. Yes.

A. I don't remember, I guess I did; I don't recall.

Q. I show you this paper, and ask you to read it, and state whether that refreshes your recollection? (Handing wit-
216 ness a paper.)

A. Yes; I remember that.

Q. Does that refresh your recollection as to whether or not you had a good market for . . .

A. Yes, I had a good market all right.

Q. (By Mr. Taylor) Mr. Stanaland, after you received this letter of October 22nd, 1917, from the Moultrie Packing Com-

pany, Exhibit 69, did you make any attempts to secure accounts of other companies? (Handing witness a paper.)

A. Yes.

Q. And did you succeed in securing accounts with other concerns later on, any other concerns?

A. Well, yes, I succeeded later on. The fact of the business, I didn't succeed until after I secured the Tifton Packing Company's account.

Q. And what class of goods did the Tifton Packing Company have?

A. The same class of goods that the Moultrie Packing Company, sold from the same part of the country.

Q. And after you received no further goods from the Moultrie Packing Company, do you know who handled the Moultrie Packing Company's products here in this market, or how they were handled, by whom they were sold?

217 A. Swift & Company was supposed to sell them, but I could not swear absolutely that Swift & Company did sell them, except on the—what my trade told me, and on the information that I got individually from the Moultrie Packing Company.

Q. Well, you visited your customers from day to day and from time to time?

A. Yes.

Q. And did any of them state to you any reasons why they could not buy your meats, whether they had previously bought from somebody else?

A. Well, I didn't have that account until February—I mean the Tifton Packing Company account—until February, 1918. I think that date is correct. February, 1918, is when I got my first products from the Tifton Packing Company.

Q. In calling upon your customers after October 22nd, 1917, did you occasionally see Swift's meats in their places?

A. Yes.

Q. And were any of those Swift meats local Georgia pork?

A. Looked to be; yes.

Q. You are able to tell Georgia pork when you see it, are you not?

A. Well, I am able to tell peanut-fed pork or mass-fed
218 pork, which is soft pork, of course I would not swear it would be Georgia pork.

Q. Now, did you see any soft pork in their places?

A. Yes.

Q. With Swift's mark on it?

A. Yes.

Q. Do you know of any of the Moultrie pork being sold in this market by anybody other than Swift?

A. No.

Q. That is after this letter of October 22nd, after you stopped selling it.

A. That is what I understood you to mean.

Q. Now, after you had obtained the Tifton account in February, 1918, did you continue to sell the soft Georgia pork in this market?

A. Yes.

Q. For how long a time?

A. Until June, 1919.

Q. And during this time, do you know of anyone else who was selling soft Georgia pork in this market?

A. Yes, there were a number of others selling soft Georgia pork in this market.

219 Q. Who were selling it?

A. The Waycross packing plant was coming into this market, the Chipley Packing Company of Chipley, Florida. I don't remember whether the Statesboro Packing Company of Statesboro, Ga., was coming in here at that time or not, it may have been previous to that time, I am not certain as to that, but they did come into this market at one time—not Statesboro Packing Company, but Bulloch Packing Company, of Statesboro, I will correct that, they came into this market at one time.

Q. And that is all in addition to the products of the Moultrie Packing Company, which was being handled here by Swift.

A. Wait a minute; there is another one. Armour brought pork here from Jacksonville, along about that time, Armour & Company brought pork here, soft pork from Jacksonville, Florida, they came into this market about that time, but they did not come in to any great extent.

Q. And Swift & Company was selling the Moultrie products?

A. Supposed to be, I had reason to believe they were, because the trade that I had, with which I came in contact, said they were.

Q. And you saw the products hanging in their places of business?

A. Yes.

220 Q. And now, will you state what sort of competition in the way of prices you met with during this period, when you were handling the Tifton products?

A. From whom?

Q. From Swift & Company?

A. Well, at times Swift & Company were very low, and at times they were pretty well in line. It depended a good deal upon market conditions here as to how they would run.

Q. Can you describe the run of prices on soft pork, with relation to the prevailing price on Western pork? How did the prices compare?

A. During which time?

Q. During the time that you were representing the Tifton Packing Company.

A. Well, it usually sold from two to three cents a pound under the Western prices. That was the usual differential on fresh meat. Of course it varied. There were certain seasons of the year when I could get as much, and in some instances more, on this market for the Southern pork, on account of the short haul, on accounts of its getting in fresh instead of being frozen.

Q. How would the short haul help you?

221 A. The short haul would help it in that it could bring it in refrigerator cars, instead of pre-chilling it or freezing it. You see in a long haul on pork it is necessary to, as a rule, to freeze it, so that it will come through in good condition. From the Moultrie Packing Company, I usually had a haul of about 24 hours.

Q. So that it was unnecessary to freeze the pork brought to this market?

A. Unnecessary to freeze the Moultrie pork, in order to get it in here in good condition.

Q. Now, when were these seasons of the year that you speak of, when you could sometimes get full Western prices for the soft pork?

A. Usually from March 15th on to October 1st. At that time there was very little peanut fields, and consequently there was nothing for the hogs to eat that would create this oily pork, but during the fall season, when the fall season began, there was usually so many peanut-fed hogs until there was quite a good deal of soft, oily pork on the market, and it was in worse condition at that time in regard to the oil than it was later on.

Q. Now, at the time you were handling the Tifton
222 pork, were you permitted to meet Swift & Company's prices?

A. Yes, I was permitted to meet Swift & Company's prices. Sometimes I would not meet Swift & Company's prices. I remember one instance after they got it that they turned it loose pretty low around town here. That period lasted I should say, for probably two weeks, and knocked the bottom out of it. I don't know whether it was because they were overloaded on that particular class of pork, or what it was. But I will never forget that, because I come very nearly dumping some stuff.

Q. What class of pork was that?

A. That was Southern pork.

Q. And when was that?

A. As well as I remember, that was in the fall of 1918.

Q. Do you recall how much they were under your prices at that time?

A. No, I cannot say that I do. I know that they were considerably under my lowest price given me by the Tifton Packing Company.

Q. Now, did you have a discretion with regard to making prices when you were representing the Moultrie Packing Company after July, 1917—that is for the months July, August, September and October up to the time that it was taken away from you?

223 A. At first I didn't have a great deal of trouble, because I didn't get a great deal of products, but they began to tighten up on me pretty closely along towards the end of it.

Q. Now, will you please state just a little more fully just what you mean by that?

A. Well, I was instructed to hold strictly to list prices.

Q. And when were those instruction given?

A. Along in September and October, 1917.

Q. In the meanwhile was Swift & Company holding to the same prices that you were instructed to hold to?

Mr. Horton: I object to that, unless the witness knows exactly what Swift & Company were doing.

The Witness: I don't know.

Exam. Sadler: The objection will be sustained.

The Witness: Will you put that question again.

Q. (By Mr. Taylor.) Do you know at what prices Swift

& Company were selling for during September and October, that is selling the Moultrie pork?

Mr. Horton: What year?

Mr. Taylor: 1917.

A. Only from what I was told by my trade.

Mr. Taylor: Yes.

224 Mr. Horton: I object to that as hearsay.

Exam. Sadler: The objection will be noted.

Q. (By Mr. Taylor.) Now, what did the trade say to you? What did your customers say to you at that time with regard to the prices that Swift & Company were quoting them?

Mr. Horton: I object to that, Mr. Examiner. It is immaterial what the customers said, what they said might not have been true; I think it is commonly known, it is a matter of general knowledge, and I think the Courts take judicial notice, that between a buyer and a seller, there are many arguments given out, which each one of them can think of, to influence the price, to make a trade.

Mr. Taylor: All of that goes to the weight of the evidence, Mr. Examiner, and not the competency of it. The competency of this evidence is perfectly clear, as will be shown in the rule in the case of Lowe vs. Lawler, and we are entitled to introduce it. At least I feel sure that it does come within that rule, or will come within that rule, before I finish this line of examination.

Exam. Sadler: The objection will be noted.

The Witness: What was the question?

Q. (The previous question read by the reporter.)

225 A. They told me what Swift's prices were at that time, and that if I would meet those prices they would give me the business.

Q. And were you able to meet those prices on Moultrie pork?

A. Not in all instances.

Q. Why?

A. Because I did not have the authority to do it.

Q. And did you accordingly lose the sales?

A. Where I did not meet the prices I did.

Q. Now, you say you kept the Tifton account up to June, 19—

A. 1919.

Q. What happened then?

A. They sold out to Armour & Company.

Q. Well, what happened with the account, so far as you were concerned?

A. Armour & Company withdrew the account.

Q. And you were left, unable to get any more Southern soft pork from Tifton?

A. No, I secured the Macon Packing Company account at that time that was still Southern pork.

Q. The same class of pork?

A. The same class of pork.

Q. Now how long did you keep the Macon Packing Company account?

226 A. Until they closed the plant; it was in 1920; I don't remember the exact date.

Q. That is, you obtained the account?

A. Obtained the products until they closed the plant, qnit operations.

Q. What time of the year 1920, as near as you can tell?

A. It was about August or September of 1920, as well as I recall.

Q. And what condition did you find in the competitive market, so far as Swift & Company was concerned, so far as the period, when you were handling the Macon Packing Company's product?

A. I didn't have very much trouble or competition with them along at that time.

Q. Now, who was selling the soft pork at that time?

A. In 1920?

Q. Yes. During the time that you were handling the Macon products.

A. Well, Swift & Company, Armour & Company, and White Provision Company, of Atlanta.

Q. What class of pork was the White Provision Company handling?

A. Why, they handled both. They handled corn-fed pork from Tennessee, and also peanut-fed pork from South Georgia.

227 Q. Well now, would the White Provision Company sell cut pork or did they sell the whole pig?

A. Yes, sold both.

Q. At that time?

A. Yes.

Q. I believe you stated in your previous answer as to who was selling the soft pork in this district, that the Way-

cross Company, at Chipley, and the Statesboro concern, were selling. What became of them in the meanwhile?

A. Why, Waycross quit and Statesboro—well they quit coming in, and the Chipley Packing Company quit coming in on account of it being such a hard—it being so hard for them to get their cars through, the railroads into Atlanta were very hard to get them shipped, a good deal of stuff in here was by express, that is fresh pork by express, but it came in very bad condition, in fact nearly all of it was hardly in a merchantable condition when it was received.

Q. Well, do you know if they are still in business?

A. The Chipley Packing Company?

Q. Yes.

A. They were still in business the last I heard from them, but they have withdrawn from the Atlanta market, some little time ago.

228 Q. Did you at any time meet in competition here the products of the Andalusia Packing Company?

A. Yes, sir.

Q. When was that?

A. That was in 1916 and '17.

Q. And can you state about what time in 1917 it ceased?

A. About the same time that I ceased getting products from the Moultrie Packing Company.

Q. Who handled the Andalusia account here during that time?

A. The J. W. Clarke Company.

Q. And who was the J. W. Clarke Company?

A. That was a stock company—that is it was a corporation, I think.

Q. And who was the active man in the corporation?

A. Mr. Miller,—I was trying to think of his initials, but I cannot recall his initials just now—F. O. Miller, I think.

Q. Now, what is the situation here as far as you are concerned, at the present time, with regard to South Georgia pork, are you able to get it to sell?

A. No, not to any extent. I am getting—well, the fact of the business is I have got a consignment of my second car this past winter season.

229 Q. All you have been able to get the entire season?

A. Why very little stuff, I have got some here from the Savannah Abbatoir & Packing Company, Savannah, Georgia, but not enough to amount to anything, about a 10,-

000 pound car, mixed car, not all fresh pork, some of it has beef in it.

Q. Are you able to sell all that you can get?

A. Yes, if I can get it at anything like a reasonable or market price I am.

Q. Can you sell more than you were able to get?

A. Yes.

Q. Do you know who is at the present time selling Georgia soft pork in this market, fresh pork, if anybody?

A. Swift & Company is selling it.

Q. How does Swift & Company's price on Georgia soft pork compare with the price on Western pork at the present time?

A. They seem to be about the same, not very much difference.

Q. Do you know of any other soft pork that is being sold in the market at the present time?

A. None except White Provision Company; they probably still sell some Georgia pork.

Q. Do you know whether they sell that as cut up or in the pig?

A. They sell it both ways; I have occasion to buy it 230 from them sometimes.

Q. Now you say that Swift & Company's prices on the soft pork, at the present time, are about the same as Western pork; can you state how long that condition has existed?

A. Well, I don't know how long it has existed. In fact, I don't know that they were selling any Southern pork, because I had very little occasion to come in competition with it, as I am selling principally Western pork at this time.

Q. Whose account do you have at the present time?

A. Sinclair Sales Company, of Cedar Rapids, Iowa.

Q. And when did you get that account, Mr. Stanaland?

A. In June, 1920.

Q. And you get no Souther pork from them, none of the soft pork?

A. Nothing, except firm corn-fed Western pork.

Q. Do you recall having among your customers the account of Williams & Johnston?

A. Yes.

Q. Can you by turning to your books state about when you stopped selling to Williams & Johnston?

A. Yes, sir; I think I can. You mean when I stopped selling them anything?

231 Q. That is when you stopped selling them Southern pork, that is soft pork?

A. Yes, I think I can. No, I cannot do that by turning to these books, I would have to turn to the....

Q. Can you state when you stopped selling the Moultrie pork?

A. Yes, I can tell you that. October 6th, 1917, was the last date, the last invoice.

Q. Did you afterwards sell them Georgia pork from your other accounts?

A. Yes, when I could get it. I didn't right immediately after that, because I didn't have any Southern pork.

Q. But, whenever you had it, and were able to sell it, you sold it to this firm?

A. Yes, I could sell it to them.

Mr. Taylor: You may cross examine him.

Cross-Examination.

Q. (By Mr. Horton.) When did you start in the wholesale meat and jobbing business in Atlanta?

A. In 1915.

Q. What was your business prior to that time?

A. Wholesale dry goods business.

Q. Is this your first experience in the meat business?

232 A. That was my first experience; yes.

Q. Then, you represented the Moultrie Packing Company up until October, 1917?

A. Yes.

Q. And did you represent any other lines, any other concerns?

A. Not any principal lines, I don't recall having represented any other lines at all, except the Moultrie Packing Company at that time, I possibly bought and sold some stuff on the outside.

Q. What concerns have you represented or been broker for since that time up to date?

A. What concerns?

Q. Yes.

A. Well, it would be hard to say. You mean the principal—do you mean the principal—all of them?

Q. All of them.

A. Well, I would not be able to tell you that, without going back and referring to them.

Q. Well, as near as you can remember.

A. Well, I have represented the Moultrie Packing Company, and Tifton Packing Company, the Macon Packing Company, and Sinclair Sales Company.

233 Q. Any other lines of food products?

A. That is practically all, except what I bought and sold, as well as I remember.

Q. Did you buy and sell as well as do a commission business?

A. I did some buying and selling; yes. That is, I buy a supply, to make up my line, anything else.

Q. What products do you buy and sell?

A. Why, a little meat you see, sometimes I would buy fresh meats, and sometimes I would buy some cattle out at the stockyards, and sometimes I would buy pigs.

Q. Did you slaughter the pigs and cattle yourself?

A. No, only in one instance have I slaughtered any pigs.

Q. Did you have them slaughtered for you, and sell the carcasses?

A. Yes.

Q. What character of hogs did you slaughter, what were they?

A. South Georgia.

Q. South Georgia hogs. And in what quantities?

A. Why, there was only one instance I slaughtered a carload of hogs, and I had so much trouble in getting them killed out at the abbatoir, I didn't bring in any more.

Q. Now, didn't you have a warehouse or plant here in Atlanta?

A. No; I have got a warehuse, yes.

234 Q. Did you have that while you were representing Moultrie Packing Company?

A. Yes.

Q. Who paid the rent on that, did you pay that?

A. Yes.

Q. Did you stand all the expenses of conducting your business as agent of the Moultrie Packing Company?

A. Yes; I stood all the expenses.

Q. That would include rent?

A. Yes.

Q. And hire of your salesmen?

A. Yes.

Q. And salaries?
A. Yes.
Q. Salaries of your office force?
A. Yes.
Q. And all the expenses incidental to maintaining your establishment?
A. Yes.
Q. And delivery. Did you deliver?
A. Yes, I was made an allowance by the Moultrie Packing Company for deliveries, but I stood for whatever the de-
225 liveries were, and made an allowance of so much per hundredweight for deliveries.
Q. Take the year 1916, were those expenses large or small?
A. Well, my expenses were small. They have always been light until the last eighteen months.
Q. And about what figure do you mean by small? About what did it cost you to conduct your business?
A. Well I mean I had a very small force, in fact I did nearly all of the selling myself for the first year and a half.
Q. Take the year 1916, about what would your expenses amount to for that year?
A. (Witness examining a book.) About $2,700.00.
Q. Then, your net on the account for 1916 would be the difference between your commissions, or would be your commissions less your expenses?
A. Yes.
Q. You stated, Mr. Stanaland, that you had from 150 to 200 customers. Were there any of those customers who made their purchases from you, based upon considerations other than price and quality?
A. I don't understand your meaning of that. Bought stuff from me other than on price and quality?
236 Q. Yes.
A. I cannot say that there were.
Q. That was the factor that influenced the sales?
A. Yes.
Q. Each one of these men is in business for pecuniary gain?
A. Yes.
Q. They try to buy as cheap as they could?
A. Yes.
Q. Now, Mr. Stanaland, I notice that when you went through your customer's ledger, and mentioned certain cus-

tomers to whom you sold goods, that you would turn over a number of pages before you would mention a customer's name. What were you looking for, why did you turn over the pages?

A. He asked me to mention some of my principal customers. That is, I inferred from that, that he meant customers that made larger purchases.

Q. And those were the customers that you attempted to give?

A. Yes.

Q. (By Mr. Taylor): You did not attempt to give all of them?

A. I did not attempt to give all of them, I went as far as he asked me.

Q. (By Mr. Horton): Were there any of those cus-
237 tomers that you mentioned to whom you sold meat exclusively, that is to say, to whom you sold meats to the exclusion of all other dealers?

A. No, sir.

Q. Were there any of those customers to whom you sold, say 50 per cent of their requirements?

A. I think I did.

Q. How many?

A. Well, it would be hard to say how many.

Q. Which customer have you in mind?

A. Well, I have a number of larger customers that handled soft pork almost exclusively.

Q. Well, mention please their names.

A. Well, Beuler Brothers was one of them at the time.

Q. Who?

A. Beuler Brothers, at 114 Whitehall, they were one of them.

Q. What do they do, run a market?

A. Yes.

Q. Do you know what their gross weekly business amounts to?

A. No, I do not.

Q. Is it not true that they are big buyers?

A. They are pretty big buyers, yes.

Q. Is it not true that they do three or four thousand
238 dollars of business a week?

A. I don't know how much they do.

Q. How would you estimate it?

A. I would estimate it by seeing the checks that they have,

and noticing mine in comparison with some of the other checks, the different weekly checks for the packing houses.

Q. They are large beef buyers as well as pork buyers, are they not?

A. What is that?

Q. They are large beef buyers, as well as pork buyers, are they not?

A. Yes, they buy beef too.

Q. Can you think of any other customers to whom you sold over 50 per cent of their requirements of pork?

A. Why, I would say that—well, I can mention one that I know I sold over 50 per cent of.

Q. Who was that?

A. The Sanitary Market Company.

Q. Is that a large buyer or small buyer?

A. They are large buyers; they were at that time very large buyers.

Q. Now, I take it the inference is that while you were
239 representing the Moultrie Packing Company, you gave them satisfaction?

A. Moultrie Packing Company?

Q. Yes.

A. As far as I knew I did.

Q. And you endeavored to dispose of their products to the best advantage?

A. To the best advantage possible.

Q. And you were able to do that?

A. Well, I didn't have any complaints to any extent.

Q. You sold all the products they shipped you?

A. Practically all of it, yes. There may have been some instances where I had some stuff that would spoil on me.

Q. Was that frequent or otherwise?

A. No, it was not frequent.

Q. And, was the quantity large or small?

A. Why, usually small. In the beginning I didn't have cooler facilities sufficient for taking care of the stuff.

Q. And would you say, compared to the total volume that you did, that the amount that was spoiled was inconsequential or otherwise?

A. Why, it was inconsequential.

Q. Well, then, when you say that you lost sales to
240 Swift & Company, you mean that you were later able to sell the goods?

A. Possibly so, yes, at a cheaper price, maybe.

Q. Yes. And you were always able to sell?
A. Yes, I guess I was.
Q. Never had any meat spoil on you because Swift & Company lowered the price, did you?
A. I don't recall that I did, any specific instance.
Q. If they did lower the price on you. Now, when you were representing the Tifton Packing Company, and the Macon Packing Company, were you selling soft hogs?
A. Yes.
Q. And there were four or five other concerns in this market selling soft hogs?
A. Yes; I think you are right.
Q. Now, it was the general practice of each one of these people, who were selling pork, to meet competition?
A. Yes, it is usually the case.
Q. And would it not be a fair statement to say that if Swift & Company lowered their price on soft pork, it might have been to meet the competition of some of these other people?
A. That is true.
Q. That was probably the case?
241 A. I suppose so, I don't know.
Q. Did you ever find that any of the other packers who were handling soft pork were making a price under the price you were making?
A. Yes.
Q. That was true when you were representing the Moultrie Packing Company?
A. In very few instances.
Q. And was it true when you were representing the Chipley Packing Company?
A. Well, I didn't represent the Chipley Packing Company very long.
Q. I mean Tifton.
A. The Tifton Packing Company? Yes that was true.
Q. And when you were representing the Macon?
A. Yes.
Q. Now, how many meat dealers—first, does Armour & Company do business in this territory?
A. Yes.
Q. Do they have a branch house here?
A. Yes.
Q. And how long have they had a branch house here,
242 to your knowledge?
A. That would be hard to say. I guess Armour &

Company probably has had a branch house here for twenty years, I don't know.

Q. And Wilson & Company, and their predecessors in business?

A. Yes.

Q. Sulzberger & Company, and Saulesberger & Schwartzchild?

A. Yes.

Q. They have a branch house here?

A. Yes, sir, Wilson & Company now.

Q. And for how long have they had one?

A. Well, it would be hard for me to say; I don't know.

Q. To the best of your knowledge.

A. Well, you see I haven't been in the meat business you know only about five years, and I would not remember naturally, I would not remember.

Q. Do you know whether they had one in 1915 when you came here?

A. Yes, sir, they had one then.

Q. And a number of years prior to that time?

A. Why, I suppose so; I don't know; I don't recall.

Q. And Morris & Company?

A. Yes, they had one here.

Q. They have a branch house here now?

A. Yes.

243 Q. They had one here in 1915, when you came?

A. Yes.

Q. And Cudahy Packing Company?

A. Yes.

Q. And they have a branch house here now?

A. Yes.

Q. And they had one in 1915, when you came?

A. Yes.

Q. And the Jacob Dold Packig Company?

A. Yes, they had one in 1915 when I came in. They withdrew in I don't recall just what time, but it was during the World War; they withdrew from the Atlanta market.

Q. Have they got one here now?

A. No.

Q. And Kingan & Company, have they a branch house here now?

A. Yes.

Q. Did Kingan & Company have one in 1915?

A. Yes.

Q. Well, the White Provision Company; do they sell wholesale meats here now?

A. Yes.

Q. Did they in 1915, when you came here?

244 A. Yes.

Q. Do you know whether they did prior to that time or not?

A. Why, I suppose they did; I don't recall.

Q. J. W. Clarke & Company, did they sell wholesale meats here?

A. J. W. Clarke Company, you mean?

Q. Not now?

A. No, they don't sell wholesale.

Q. When did they stop selling here?

A. I don't remember exactly.

Q. Well, to the best of your recollection.

A. Oh, it was in—

Q. Just approximately, I don't think it is important.

A. Well, it was in 1918, I think.

Q. Were they represented here in 1915, when you came here?

A. Well, they were brokers. J. W. Clarke Company were brokers—yes, they were here in 1915.

Q. They were here. And Mitchell Brothers?

A. Mitchell Brothers; yes.

Q. They are here now?

A. Yes, they are here now.

Q. Were they in 1915 when you came here?

A. I think they started in 1915, a little after, it may
245 have been 1916, when Mitchell Brothers started. I know they were right across the railroad from me, I don't recall whether they started in—no, I don't think they were not here in 1915, their predecessors were here, right across the street from me.

Q. Who were their predecessors?

A. Somebody and Cheathem, I think it was. I cannot remember the name of that concern just now at this time.

Q. Anyway, there was a concern selling wholesale meats there?

A. Yes.

Q. D. P. Ozburn, in business here now?

A. Yes, he is in business.

Q. Does he handle wholesale meats or does he—

A. He does not now.

Q. Did he in 1915, when you came here?
A. Yes.
Q. And for how long a time subsequent to 1915?
A. Why, up until 1920.
Q. Now, W. A. Perkins, is he in business here now?
A. He is, representing two or three different packers. They sell to arrive.
Q. He is selling wholesale meats here now?
A. Yes, he is selling wholesale meats.
246 Q. Was he in 1915?
A. I don't remember whether he was in 1915 or not.
Q. Can you remember in 1916?
A. Yes, I think he was in 1916.
Q. Does he represent the Hormel Packing Company, of Austin, Minnesota?
A. Yes, he is not now, but did at one time.
Q. Who does he represent now?
A. Why, it is hard to tell; I don't remember just who he represents now, I think he is representing two or three accounts.
Q. Is the Indiana Packing Company one of them?
A. What?
Q. The Indiana Packing Company?
A. No, sir.
Q. Now, C. W. Wright, does he sell wholesale meats here now?
A. No, sir.
Q. Did he in 1915, when you came here?
A. C. W. White?
Q. C. W. Wright.
A. I don't understand, I thought you said C. W. White.
Q. Does he sell wholesale meats here now?
A. Is that the initials. I don't remember C. W.
247 Wright. There is a man by the name of Wright here selling.
Q. Maybe I haven't got the initials right.
A. There is a man by the name of Wright, that has been in the brokerage business here for some little time.
Q. Represents the Cincinnati Abbatoir Company, does he?
A. He does now, yes.
Q. Well, that is the man I had in mind.
A. Yes.
Q. Was he here in 1915 when you came here?
A. No, sir.

Q. When did he come here?

A. Why, he was at that time, he was selling meats for some of the packers, some of the other packers here in town, I think, as well as I remember.

Q. When did he start out to handling wholesale meats, do you know?

A. Well, he has only been representing the Cincinnati Abbatoir Company recently. There was no party represented them previous to that time—I mean any other party who had charge of their sales. Wright had been just a salesman for them.

Q. The Atlanta butcher's abbatoir here, they sell wholesale meats here now?

Mr. Taylor: Mr. Examiner, I would like to ask in
248 what way this is cross examination, and the purpose of it. It seems to me it would be more in the line of direct examination than cross.

Mr. Horton: Mr. Examiner, the issue in this case is whether or not competition was restrained, for one thing. That has been what the counsel for the Commission has been attempting to prove. I would like to show that this city was at least fairly well supplied with wholesale meat dealers.

Mr. Taylor: The questions, however, are not limited to the class of meat involved in this issue.

Mr. Horton: What?

Mr. Taylor: The questions are not limited to the class of meat involved in this issue. The witness has testified in what time he was handling the class of pork he was handling.

Mr. Horton: Maybe when we get through we can make it a little more definite. We have two or three more names on my list here, I will ask the witness if they handled pork products.

Exam. Sadler: The objections will be noted.

Q. (The question read by the reporter.)

A. No, sir, the Atlanta Butcher's Abbatoir does not do any wholesale business at all.

249 Q. (By Mr. Horton) Well, do they have an agent here, who sells the products they kill?

A. No, sir, the Atlanta Butcher's Abbatoir is a public killing plant, killing for different butchers.

Q. Does W. F. Bettis, handle wholesale meats here now?

A. W. F. Bettis? There was a man by the name of Bettis

handling wholesale beef here, and he possibly sells some pigs too. He kills at the Atlanta Butcher's Abbatoir.

Q. Now, Cohen Brothers. Are they local slaughterers here?

A. Cohen Brothers, or Max Cohen. I know them as Max Cohen. They may be "Cohen Brothers."

Q. Is he a local slaughterer here?

A. Yes, sir; he is al ocal slaughterer here.

Q. Do they sell wholesale meats?

A. Yes.

Q. Did they in 1915 when you came here?

A. I think at that time it was Weinberg & Cohen, I am not sure about that.

Q. But they did business in 1915?

A. As well as I recall; yes, that is true.

Q. Now, the Evansville Packing Company, they have a branch here now?

250 A. Yes.

Q. A branch house?

A. Yes.

Q. And they sell wholesale meats?

A. Yes.

Q. Did they in 1915?

A. No, they were not here in 1915.

Q. They were represented by a broker, at that time, were they not?

A. I don't recall that they were.

Q. How early can you recollect them being in this territory?

A. It was about 1919, as well as I recall it, when they first came in.

Q. The Hormel Packing Company, of Austin, Minnesota, have they got a branch house here now?

A. Yes, sir, they have a branch house here now.

Q. Were they here in 1915?

A. No.

Q. Were they represented by broker in 1915?

A. I don't think so. I don't think they were represented here in 1915.

Q. How early can you recall them being represented here?

251 A. Well, I should say it was in 1918 or 1919, I don't recall which year, my recollection is it was about that

year. They were represented by Mr. W. A. Perkins at that time.

Q. Didn't he go into business about 1916?

A. Why, only as a broker for those people, which is one and the same concern.

Q. Now, the Cincinnati Abbatoir, or possibly Cincinnati Abbatoir Company?

A. Well, you had the same thing awhile ago, you know, about Mr. Wright.

Q. Did he represent them?

A. He represented them.

Q. They have a branch house here now?

A. Well, you would hardly call it a branch house. They sell—their fresh products to arrive. In other words, they sell this week for next week's delivery, but I think they carry a small stock of lard possibly, and dry salt meats here, but not any stock to any great extent.

Q. But they do sell pork products?

A. Yes, they sell both pork and beef products.

Q. Well, the St. Louis Independent Packing Company, have they a branch house here now?

252 A. No, they have no branch house here at all, sell to arrive.

Q. But, they are represented here?

A. Yes.

Q. And sell wholesale meats in this market?

A. Yes.

Q. Were they here in 1915?

A. No, sir.

Q. How early can you recollect them being in this market?

A. About the past twelve months, just about as far back as they came.

Q. Now, are the dealers more numerous today or less numerous than they were in 1915?

A. More numerous.

Q. That has been progressively so since 1915?

A. What did you say?

Q. That has been progressively so since 1915?

A. Well, I cannot say that it has been altogether progressive up to that time, but in the last—well, since the war, since the armistice was signed, there have been a great many more here than there was previous to that time.

Q. Now, can you think of any other people who are han-

dling wholesale meats here now, that I have not mentioned?

253 A. I think you have covered it pretty well. I was trying to think of it awhile ago, but I don't recall any more.

Mr. Taylor: Mr. Examiner, may it be understood that my objection goes to all of these questions which have been asked up to this time with regard to the various concerns who are handling wholesale meats generally in this market?

Mr. Horton: All right.

Exam. Sadler: Yes, it will go to all.

Q. (By Mr. Horton) Now, are there in any of these concerns that I have mentioned, that do not handle pork products?

A. I don't think there is any of them that don't handle pork products?

Q. They all handle pork products?

A. I think so, to a certain extent. Those butchers you mentioned at the Atlanta Butcher's Abbatoir only handle pork products in the form of whole carcass of pigs and hogs, they do not handle any pork cuts.

Q. Now, are there any of them that do not handle beef?

A. I don't know of any that don't handle beef; I don't recall any of the number.

Q. Now, in 1917, can you give me the names of the dealers who were handling soft hogs, soft pork, and pork products?

254 A. In 1917?

Q. Yes, sir.

Q. You mean any part of 1917, or just take the year 1917 as a whole, or either part of it?

Q. Well, give me the answer the best way you can, and if somebody started up during that year at least, about when they started.

A. In 1917?

Q. Yes.

A. I don't know of any other dealers that were coming in here except Andalusia and the Moultrie Packing Company in 1917; I don't remember.

Q. How about the White Provision Company?

A. Well, the White Provision Company was here in 1917.

Q. And, didn't they handle soft pork?

A. Yes, they handled some soft pork, but their great

hobby was that they handled Tennessee pork, that is Tennessee hogs, which was firm hogs.

Q. Yes, but they did handle some Southern pork?

A. They did handle some Southern pork, yes.

Q. J. W. Clarke was here?

A. Yes.

255 Q. And Mitchell Brothers?

A. But, J. W. Clarke Company were handling the Andalusia products. Mitchell Brothers never handled any Southern pork, except what they bought from me. Now, the J. W. Clarke Company, they handled Southern pork altogether.

Q. Now, are there any others?

A. That handled Southern pork?

Q. Yes.

A. I don't remember, any others during that year. The Chipley Packing Company may have come in here at that time, but if they were, as well as I recall, they were represented by the J. W. Clarke Company, who handled the Andalusia account too.

Q. As well as the Chipley account?

A. As well as the Chipley account.

Q. Now take the year 1918, was the White Provision Company handling any Southern pork at that time?

A. Yes, I think they were, to a certain extent.

Q. Do you recollect what plant they represented at that time?

A. The White Provision Company? Well, the White Provision Company, they are slaughterers themselves, they are a packing house.

Q. They slaughter?

256 A. They have a local plant here.

Q. They have a local plant here?

A. Yes.

Q. I see. Then, they sold their own output?

A. Yes, they sold their own output.

Q. And was J. W. Clarke & Company representing somebody in 1918?

A. Yes, I think they did.

Q. The Chipley Packing Company?

A. I don't think—they possibly represented Chipley Packing Company, but I don't think they got any—I think that the quantity of meat that they got from the Chipley Packing Company at that time was negligible; the fact of the

business, nearly all of the stuff that came from Chipley, came in by express, and it was in very bad condition when it came in, I happened to see some of it.

Q. Who represented the Macon Packing Company in 1918?

A. In 1918. I think I did—no, J. W. Clarke Company represented them previous to the time that I did. That is the way it was. I don't recall whether the Macon Packing Company was represented here in 1918 or not. If they were, they were represented by the J. W. Clarke Company.

Q. The plant was built at that time, was it not?

257 A. I don't recall that it was. I began representing them in 1919.

Q. You stated that you secured the Tifton account in February, 1918?

A. I said that I received my first shipment from them in February, 1918.

Q. You stated that at that time there was a number of others selling Southern pork in this territory, including the Waycross Packing Company, Chipley Packing Company, Statesboro Packing Company, and Armour & Company?

A. Armour & Company—well, that was—I don't recall that was from 1915 up to—during that time, all of those packing plants came in here, but I don't remember whether it was just in 1918 or not.

Q. Do you know the firm of Williams & Johnston?

A. Yes.

Q. Who was their buyer?

A. Mr. Hendrix.

Q. Is he the gentleman that testified here yesterday, Mr. V. J. Hendrix?

A. Yes.

Q. Are you frequently with Mr. Hendrix?

258 A. Why, not to any more extent than I am with any of my other customers.

Q. You seemed to think that you can get his business, if you can meet the prices of your competitors.

A. Well, that is true; I have got a good many friends among the trade here in Atlanta.

Q. Have you had any conversation with Mr. Hendrix about testifying before this hearing?

A. I don't recall that I have.

Q. Are you sure you did not have?

A. I don't remember having any conversation with him.

Yes, I did. I do remember it too, I hadn't thought about it before that time. He asked me what the Trade Commission wanted up here. I remember he was down at my place, I didn't recall it at that time. He asked me what the Trade Commission wanted with him. I said, "It is to testify in the case of the Trade Commission, about the selling of the Moultrie Plant to Swift & Company." He said: "What do they want?" I said: "I don't know, further than that. I guess that is what they want." He said he had a subpoena to come up here.

Q. Do you know Mr. Haycraft, the Examiner for the Commission here?

259 A. Why only until recently.

Q. Pardon?

A. I only met him recently.

Q. How long ago did you meet him?

A. Why, it has been a day or two ago.

Q. Did you give Mr. Johnston's name to Mr. Haycraft?

A. Did I give him the name? I don't recall that I did.

Q. Do you recall that you didn't give it to him?

A. Did I give Mr. Johnston the name of Mr. Haycraft?

Q. Didn't you give Mr. Haycraft the name of Mr. Johnston as a witness that would testify for the Commission? I mean Mr. Hendrix name to Mr. Haycraft?

A. I don't recall that I did.

Q. Are you sure you did not?

A. I am sure that I did not. I only gave him the name of Williams & Johnston, but I do not recall giving him the name of Mr. Hendrix.

Mr. Haycraft: Mr. Examiner, with counsel's permission, I would like to make a statement with reference to the line of questioning.

Mr. Horton: It is quite agreeable to me, Mr. Haycraft; you can make all the statement you want.

260 Mr. Haycraft: One of the Commission's Examiners secured a list of customers from the J. W. Clarke Company, and from the Andalusia Packin Company in the summer of 1918, and among them was Williams & Johnston Company, and while I had a conversation with Mr. Stanaland day before yesterday, I asked him if he sold the Williams & Johnston Company, and that was all the information that was furnished me by Mr. Stanaland, with regard to that concern. At that time, I didn't know who was the buyer for Williams

& Johnston Company, and did not know until I called at their place of business.

Q. (By Mr. Horton) How many shares of stock did you have in the Moultrie Packing Company?

A. I don't think I had but one.

Q. You sold that of your own free will?

A. Why—well, I sold it because I didn't think that—I cannot say it was of my own free will, yet it was too, I sold it on the solicitation of Mr. W. C. Vereen, the president of the Moultrie Packing Company, because he said he wanted the stock to make a sale.

Q. Well, you made up your own mind freely to sell it?

A. I made up my mind to sell it, of course, because I was offered a profit on it.

261 Q. Pardon?

A. Because I was offered a profit on the stock.

Q. You sold it at a profit?

A. Yes, sir; I sold it at a profit.

Q. Have you ever tried to buy any pork products from Swift & Company at Moultrie or Andalusia?

A. I don't recall that I have—yes, I have. Not at Andalusia but from the branch here.

Q. You mean the local branch here?

A. Yes.

Q. Did you succeed in trading with them or not?

A. Why, I have traded with them at times.

Q. You have bought from them?

A. Yes.

Q. And when you bought, did you get the soft Georgia hogs?

A. Why not always, but I bought them at—I knew I was buying—I either bought soft pork or I bought Western pork.

Q. You bought what you started out to buy?

A. Yes, if the price was right I bought it.

Q. Now when was it that you sold out the last of the pork that you had on the Moultrie Packing Company?

A. When did I sell out the last? November 9th, 1917,
262 seems to be the last invoice.

Q. Now you sold for them merely upon a commission?

A. Yes.

Q. And if there was any spoiled or any loss upon this product, it was stood by the owner, and not by yourself?

A. Yes.

Mr. Horton: I think that is all.

Q. (By Mr. Horton) One more question, please. What is the population of Atlanta?

A. The last census gives it a little more than 200,000—200,000 and something I think. You can get the census.

Redirect Examination.

Q. (By Mr. Taylor) Do you know what the population of Atlanta was in 1915, Mr. Stanaland?

A. No, sir.

Q. Do you know whether it has grown since then?

A. Why evidently it has. The population in 1910 was 154,000, but as just what the population was in 1915, I could not say, because I have no way of telling, but Atlanta has made progress evidently, or they would not have increased to that extent.

Q. Now Mr. Horton asked you if you had bought any pork products from Swift & Company since your connec-
263 tion with the packing company terminated, I call your attention to the last paragraph of the letter marked "I" for identification. (Handing witness a paper.) Does that refresh your recollection with regard to any purchases or attempted purchases that you made?

A. Well now he asked me the question if I had bought any products from them. This letter here, my intention in this letter was to convey that if they had anything to offer in carload lots, that I would be glad to consider a price on them, but I have never bought anything from Swift & Company or the Moultrie Packing Company since this letter or since my commission expired or terminated, in carlots.

Q. From the Moultrie Company or Swift & Company?

A. Or Swift & Company.

Q. Did Swift & Company respond to that request contained in the last paragraph of that letter?

A. No, sir; if they did, I did not receive it.

Q. Now you say that your last invoice of Moultrie goods was dated November 9th, 1917?

A. Yes.

Q. Can you determine when you received the last shipment from the Moultrie Packing Company?

A. I think I can. That has already been brought
264 out, I think, that was that....

Mr. Horton: October 27th or 28th.

The Witness: October 26th as well as I recall, it, that was already brought out.

Q. (By Mr. Taylor) Mr. Stanaland, you were asked by Mr. Horton if you sold your stock voluntarily, I will now ask you if you had known that by holding it you could have prevented Swift & Company from obtaining control of the stock of the Moultrie Packing Company, would you have sold it?

Mr. Horton: I object to that your Honor, what difference does it make what he would have done?

Mr. Taylor: I think there is some force in your argument at least, or would be up to the time that you have gone into it yourself, but now I think it is perfectly legitimate for me to pursue it to the logical conclusion.

Mr. Horton: In the first place you have got a question of what I mean is going to do in the future; in the second place you have got a question of law, you have got a question of a lot of other things, I think it is entirely incompetent; it is immaterial anyway. It is not what he would have done, it is what he has done.

Mr. Taylor: Your objection would be perfectly sound 265 if you had not gone into the matter yourself.

Exam. Sadler: The objection will be noted.

The Witness: Give me the question again.

Q (Question read by the reporter.)

A. I would not.

Q. (By Mr. Taylor: Will you state why, Mr. Stanaland?

Mr. Horton: I object to that; it is not only going beyond the wildest stretch of the imagination to ask the question of a witness as to what he would have done, but going one space beyond, to ask him why he would not have done it. It is entirely immaterial to the issue.

Exam. Sadler: The objection will be sustained.

Mr. Taylor: Well, Mr. Examiner, I think that this question goes right to the meat of the issue here. We have a man who is right in the business of representing this corporation whose stock was acquired represented them exclusively in this territory, and whose business was destroyed by reason of the acquiring of this stock by the respondent, and who is eminently qualified to answer the question that was asked of him, and what he knew and realized would be the result of the acquisition of the stock.

Exam. Sadler: I think that the question of the coun-
266 for the Commission was too broad. If you will bring it out in correct questioning, you can cover it.

Mr. Taylor: Why, on the one hand, if I attempt to bring it out in the way suggested by the Examiner, I fear my question will be subject to objection that it is leading.

Exam. Sadler: Well you can ask your question and see what the objection is.

Q. (By Mr. Taylor) How long, Mr. Stanaland, had you owned the share of stock which was sold as described?

A. I don't remember; I think it was possibly six or eight months.

Q. You acquired it while you were handling the account or the Moultrie Packing Company?

A. Yes, sir.

Q. Will you state why you acquired it?

A. State what?

Q. I withdraw that question. Would you have acquired that share of stock if you had not been handling the account of the Moultrie Packing Company?

A. No, sir; I tried to get more stock, but I could not get it at the time that I got this share.

Q. That was the reason that you tried to get more, was the same that you were handling the account of the Moultrie Packing Company?

267 A. Yes.

Q. And you desired to retain the account of the Moultrie Packing Company?

A. I certainly did.

Q. Did you anticipate that the acquisition of the stock, or the control of the stock of the Moultrie Packing Company by Swift & Company, would result in any difference in regard to that handling of the account?

Mr. Horton: I object to that. It would not make any difference whether the witness anticipated it would or not.

Exam. Sadler: The objection will be noted.

A. Why, I had every reason to believe that I would not be able to handle the account if Swift & Company acquired the account, because they have their own—they had their own branch house here, and there would not have been any reason for them to have kept a broker, when they had their own selling agency here in Atlanta.

Q. Did you know just before the acquisition of the stock of the Moultrie Packing Company by Swift & Company, what

portion of the pork business in Atlanta was being done by Swift & Company?

A. No, I don't know.

268 Q. Do you know whether they were selling as much pork as you were?

A. I don't think there was any packer in Atlanta selling as much pork as I was at that time when I could get the products.

Q. Now, going back to the time when you first got the account of the Moultrie Packing Company, do you know what the proportions were then as between yourself and Swift & Company, approximately, or even remotely?

Mr. Horton: First answer yes or no, please?

A. I didn't quite catch the meaning of your question there. I don't know what Swift was selling, but of course when I first got the account my sales were very small.

Mr. Taylor: That is all.

Recross Examination.

Q. (By Mr. Horton) Do you know the date on which you sold that share of stock?

A. No, not without referring to the letter there in reference to it or correspondence, I don't recall the date.

Q. I show you Exhibit No. 67, and ask you whether it was before that or after that date, that you sold the stock? (Handing witness a paper.)

A. It was before this date.

269 Q. That you sold the stock?

A. That I gave them power of attorney. I gave Mr. Vereen power of attorney.

Q. But when you received this letter on June 18th, your share had not been sold, yet you sent it to Mr. Vareen?

A. I sent it to Mr. Vareen, I don't know whether it had been sold or not. The matter was entirely in Mr. Vareen's hands.

Q. Well, Mr. Vareen wrote you on June 18th, and he said, quoting from Exhibit No. 67: "Will say that your stock certificate has been received by the Moultrie Packing Company, and will be forwarded with all the stock certificates in a few days to Chicago for collection."

A. Yes.

Q. And also says a little further down in the letter: "It is probable that he will not turn over the plant to Swift &

Company for possibly ten days yet. Some of their men are already here."

A. Yes.

Q. Did you make any effort to stay the sale after you received that letter?

A. No, there wasn't any use.

Q. Well, you didn't make any effort, did you?

270 A. No, sir.

Q. You didn't wire Mr. Vareen to stop the sale of that stock, you didn't want to sell your stock to Swift & Company?

A. No.

Q. You didn't do anything?

A. No, I did not.

Q. And this was at least some notice to you at least enough to put you on reasonable suspicion that the stock was to be sold to Swift & Company?

A. Yes.

Q. Now, Mr. Stanaland, you stated that from June, 1916, to May, 1917, your total business for that twelve month period amounted to $238,000.00?

A. Yes.

Q. That was all the products you handled of the Moultrie Packing Company, was it not?

A. Yes.

Q. Now, dividing that off into cars, how many cars would that average a week?

A. It would be hard to say the average, because 10,000 pounds is the minimum car from down there. It might have run 10,000 pounds or it might have run 20,000, it might 271 have run 30,000, I could not say.

Q. What would be the average price of the products that you sold for the Moultrie Packing Company?

A. Well, that would vary according to the market.

Q. Well, between June, 1916, and May, 1917.

A. What would be the average price?

Q. Yes.

A. Well, it would be right hard to estimate.

Q. Average 12 cents a pound?

A. Well possibly so. It might be more, you see, the price fluctuated quite a good deal then, in that time. They were mostly advancing though, for 1916 and 1917. They were higher than they had been previous to that time.

Q. Well, do you think that 15 cents a pound would be a fair average?

A. Well, I would think that 15 cents a pound would be a fair average.

Mr. Taylor: Mr. Examiner, it seems to me that the respondent can show actual sales by Mr. Stanaland better from their own records than from any loose computation of this character.

Q. Now what products would that include, in that year?

A. That would include all food products from the 272 packing company.

Q. What would they be?

A. They would be fresh meat.

Q. Fresh pork?

A. Fresh pork.

Q. And that fresh pork would include what?

A. Would include shoulders, hams, loins, neck-bones, spareribs, pork trimmings, and practically all of the commodities in the way of fresh pork, that is sold by a packing house.

Q. All right. Then, besides fresh pork what would it be, lard?

A. It would be lard, pure lard, and smoked meats, and some dry salt meats too.

Q. All right, taking your total volume of sales as $238,000.00, and dividing that by the average of 15 cents a pound, you get 1,586,666 pounds?

A. Yes.

Q. That is the total amount of products that you handled in one year?

Mr. Taylor: Mr. Examiner, I wish to object to this examination. The records of this company have been subpoenaed here to show what the output was, what Mr. Stanaland has handled, and what other parties have handled, and this 273 is not a proper cross examination; especially it is mere guess-work.

Mr. Horton: Mr. Examiner, I want to make my point clear, I will say that the witness has stated that he thought he was handling as much or more pork than any other packer in Atlanta, and I questioned that statement. I don't doubt the witness' sincerity at all, but I think his knowledge is insufficient to base an accurate estimate upon. I want to show that this is the case. I want to get it down to some comparable basis.

Mr. Taylor: Well then, it should be shown by competent evidence, and not by guesswork.

Mr. Horton: Well, if the witness has guessed at it when he made the statement, that is what I want to show.

The Witness: I haven't guessed. I may have guessed at the tonnage there, but I have not guessed at the amount of sales involved myself, that is from the records.

Q. But you guessed, or you estimated, or you gave your own opinion, when you stated that you handled more pork than any other packer in Atlanta?

A. I said I thought I was.

Q. Yes. I want to show.

A. Well, that is true.

Q. Well, I don't doubt your sincerity at all, Mr. Stan-
274 aland, I think you are mistaken about that.

A. Well, that may be true.

Q. If I can get it down to a comparable basis of pounds or dollars or tonnage or something....

Mr. Taylor: Well, you have got the amount of the dollars and cents that Mr. Stanaland has handled for a given period of months.

Mr. Horton: I want to bring it down a little further, and bring it down by weeks.

Mr. Taylor: Your records show exactly what he sold in pounds.

Mr. Horton: Beg your pardon, Mr. Taylor, that was not shown.

Mr. Taylor: I mean the records of the Moultrie Packing Company.

Mr. Horton: I haven't the records of the Moultrie Packing Company; I am taking this testimony, the testimony I am cross examining him upon, from the points on which he has testified.

Mr. Taylor: Swift & Company have them; they succeeded to all the property.

Mr. Horton: Granting that; I am cross examining this witness upon a point, upon which he has directly testified.

Mr. Taylor: Yes, but you are cross examining upon the basis of guesswork, that he has not testified regarding,
275 trying to bridge out and cover a point that he has not testified to, by getting him to guess.

Mr. Horton: Well, what does the Examiner rule please, upon the objection?

Exam. Sadler: The objection will be noted and the testimony will go in for what it is worth.

Q. (By Mr. Horton.) Now that gives, 1,586,666 pounds.

A. Yes.

Q. That total volume for the year. Dividing that by 52, it equals 30,517 pounds a week?

A. Yes.

Q. And that would be three 10,000-pound cars or, would it be one and a half 20,000-pound cars?

A. One and a half 20,000-pound cars?

Q. Yes, and a little over. 517 pounds over.

A. How do you make that? You said it would be three 10,000-pound cars?

Q. It would be three 10,000 pound cars a week.

A. But one.

Q. One and one half.

A. One and one half?

Q. 20,000-pound cars.

276 A. Or one 30,000 pound car.

Q. And 517 pounds over.

A. Yes.

Q. Now, do you think that represents the fair average of what you were doing, reduced to a carload basis?

A. Well, that is hard to tell, because it is merely guesswork, as to the average price there, because I would have to refer to the records. I would have to go back and examine my records to be able to tell that. The other represents the dollars and cents you know, and that amount of tonnage would vary there in accordance with the average price at that time if the price was 10 cents per pound.

Q. That is correct. Then, can you take your records and give us your tonnage for the year?

A. No.

Mr. Taylor: May it be understood that my objections goes to all this line of testimony and questions?

Exam. Sadler: Yes.

Q. (By Mr. Horton.) Can you give us your volume in any other way so that it can be compared?

A. Only in the way I have given it. I have given it in dollars and cents, and I have given it in the amount of
277 commissions, and as to the tonnage, I don't know where to find my records on that. Whenever we would keep up with the tonnage records, and they may be in my office, but after I got my commission check for the past month, except

for stock record, they were not—if they tallied with what I received from the Macon Packing Company, there was hardly any necessity for my keeping the records further.

Mr. Taylor: You mean Moultrie Packing Company?

The Witness: Moultrie Packing Company.

Mr. Horton: That is all.

Mr. Taylor: That is all.

Exam. Sadler: The witness will be excused, and we will take a recess until 2:00 o'clock P. M.

(Whereupon, at 12:20 o'clock P. M., a recess was taken until 2:00 o'clock P. M., the same date.)

After Recess

2:00 o'clock P. M.

Exam. Sadler: The hearing will come to order.

FRANK OWEN MILLER was thereupon called as a witness, and having been duly sworn, testified as follows:

278 *Direct Examination.*

Q. (By Mr. Taylor.) What is your full name, Mr. Miller?

A. Frank Owen Miller.

Q. Where do you reside?

A. Augusta, Georgia.

Q. And what is your business at the present time?

A. Manager of the Morris & Company branch house.

Q. What business is Morris & Company in?

A. Packers.

Q. How long have you been with Morris & Company?

A. I have been with them for thirteen months.

Q. What was your business previously to—connected with the selling of meats and meat products?

A. Yes, sir.

Q. How long have you been in that general line of business?

A. About sixteen years.

Q. And where did you first commence?

A. Tampa, Florida.

Q. Were you in business for yourself at that time?

A. No, sir; I was with Swift & Company.

Q. And in what capacity with Swift & Company?
A. I started as Sales Manager.
279 Q. And how long did you remain there with Swift & Company in that capacity?
A. I was there about eight months.
Q. And then what did you do?
A. I went to Meridian, Mississippi, for Swift as manager of the branch.
Q. And how long were you at Meridian as manager of the Swift branch?
A. I was there about five years.
Q. And then what did you do?
A. I went in business for myself at Hattiesburg, Mississippi, for about ten months, brokerage business.
Q. And after the ten months at Hattiesburg?
A. Back with Swift, and came to Augusta, Georgia, as manager.
Q. And went with Swift at Augusta, Georgia, doing the same thing?
A. Yes.
Q. And what was your connection there with Swift & Company?
A. Manager of the branch.
Q. Manager of the branch house?
A. Yes, sir.
Q. And how long were you there?
280 A. I was there about five years.
Q. In that capacity all the time?
A. Yes, sir.
Q. And then what did you do?
A. I came to Atlanta as manager for Swift about a year and a half.
Q. That is manager of the branch house here at Atlanta?
A. Yes, sir.
Q. And when was this, what year?
A. It was in 1913.
Q. Do you recall the time of the year?
A. My recollection is it was April, 1913.
Q. That you came with them here?
A. Yes, sir; it might have been a month or so earlier than that.
Q. And after that what did you do?
A. I went in business for myself with the J. W. Clarke Company.

Q. What was the J. W. Clarke Company?
A. They were brokers.
Q. Was it a corporation or partnership or what?
A. Yes, sir; corporation.
Q. And what was your relation to the corporation?
A. I first went in there as vice-president.
281 Q. Were you a stockholder?
A. Yes, sir.
Q. And director?
A. Yes, sir.
Q. And when was this that you first went in with the J. W. Clarke Company?
A. That was in 1914, October, if I remember correctly.
Q. And how long did you remain vice-president of the J. W. Clarke Company?
A. Only a few months.
Q. And what was your next office?
A. I was elected president and manager.
Q. And how long did you continue as president and manager?
A. I continued as long as the J. W. Clarke Company stayed in business, that was up until October, 1919.
Q. Now, did the J. W. Clarke Company—please describe more fully the nature of the business of the J. W. Clarke Company.
A. They were brokers, handled various products on consignment, and also for direct shipments. I worked the jobbing trade, and also the retail meat trade.
Q. Did they have an account with the Andalusia Packing Company at any time?
282 A. Yes, sir.
Q. When was that account acquired?
A. It was shortly after the Andalusia Company went in business, but just when that was, I do not know, without I had something to refresh my memory.
Q. Can you state about what year it was?
A. It was 1916, I think.
Q. Can you recall the time, the season of the year?
A. I think it was August.
Q. Now what line did you handle for the Andalusia Packing Company?
A. We handled all of their products, fresh meats, fresh pork, fresh beef, smoked meats, and some little dry salt meats.

Q. What was the character of the pork?

A. Just what do you mean, whether it was firm or soft?

Q. No, I mean where did the hogs come from, and what were they known as?

A. They were known as soft hogs, raised or peanut-fed, fattened on peanuts and things of that kind, made the soft meat.

Q. I show you a paper here, will you state what that paper is? (Handing witness paper.)

A. This is where the Andalusia Packing Company re-
283 quested a statement of all our outstanding contracts.

Q. That is a letter you received from the Andalusia Packing Company?

A. Yes, sir.

Q. At that time you were a broker for the Andalusia Packing Company?

A. Yes, sir.

Q. And had the Andalusia Packing Company's account?

A. Yes, sir.

Q. And the date of the letter is July 2nd, 1917?

Mr. Taylor: I offer it in evidence. (Handing paper to counsel for respondent.)

Mr. Horton: No objection.

Exam. Sadler: The letter will be received as evidence and marked Commission's Exhibit No. 71.

(The letter referred to was thereupon received as evidence, and marked Commission's Exhibit No. 71.)

Q. (By Mr. Taylor.) What is this paper which I hand you? (Handing witness a paper.)

A. This is a letter from the Andalusia Packing Company, dated July 10th, with reference to blank statements.

Mr. Taylor: I offer the letter in evidence. (Handing
284 same to counsel for respondent.)

Mr. Horton: I object to this on the ground that it is immaterial to the issue and contains statements made ex parte, which could not be binding upon this respondent or admitted in evidence against it; and it is immaterial.

Exam. Sadler: The objection will be noted and the letter will be received as evidence and marked "Commission's Exhibit No. 72.

(The letter referred to was thereupon received as evidence, and marked Commission's Exhibit No. 72.)

Q. And what is this paper which I have now handed you?

A. This is a copy of a letter I wrote the Andalusia people

under date of July 12th, 1917, with reference to report that they had sold out to Swift & Company.

Q. That is a carbon copy of the original letter which you wrote to the Andalusia Packing Company?

A. Yes.

Mr. Taylor: I offer the copy in evidence. (Handing same to counsel for respondent.)

Mr. Horton: I object to this, first, upon the ground that it is a copy; second, that the facts necessary to raise the presumption that the letter had been received by the
285 Andalusia Packing Company have not been shown; third, that it is immaterial, hearsay, and self-serving declaration.

Mr. Taylor: Mr. Examiner, I will supply the answer to the second objection in a very few minutes here.

Exam. Sadler: The same ruling as applies to letters marked for identification, F, G, H, I, J, will apply on this letter.

Mr. Taylor: I also ask that this letter be marked for identification.

Exam. Sadler: The letter will be marked for identification the letter K. (Ex. 117.)

(The letter referred to was thereupon marked "K" for identification.)

Q. (By Mr. Taylor.) Mr. Miller, what is this paper which I now hand you? (Handing witness paper.)

A. This is a telegram I received from the Andalusia Packing Company, July 14th, 1917.

Mr. Taylor: I offer that telegram in evidence (handing same to counsel for respondent.)

Mr. Horton: I object to this on the ground it is immaterial.

Exam. Sadler: The objection will be noted and the telegram will be received as evidence and marked Commission's Exhibit No. 73.

286 (The paper referred to was thereupon received as evidence, and marked Commission's Exhibit No. 73.)

Q. (By Mr. Taylor.) Please state what this paper is which I now hand you?

A. This is a letter we received from the Andalusia Packing Company under date of July 16th, 1917. Do you want the contents of it?

Mr. Taylor: No.

I offer this letter in evidence. (Handing same for counsel for respondent.)

Mr. Horton: I object to this upon the ground that it is not germane to the issue; that it is an ex parte declaration, and not material.

Exam. Sadler: The objection will be noted and the letter will be received as evidence and marked Commission's Exhibit No. 74.

(The letter referred to was thereupon received as evidence, and marked Commission's Exhibit 74.)

Q. (By Mr. Taylor.) Now, Mr. Miller, will you please look at this copy of the letter "K" for identification, and also look again at Exhibit 74, the letter dated July 16th, and tell me whether or not the copy marked "K" for iden-
287 tification, is the one the receipt of which is acknowledged in Exhibit 74? (Handing witness the papers referred to.)

A. Yes, sir.

Q. What is this paper which I show you, Mr. Miller? (Handing witness another paper.)

A. It is a letter we received from the Andalusia Packing Company under date of July 19th, 1917.

Mr. Taylor: I offer this in evidence. (Handing same to the counsel for respondent.)

Mr. Horton: This is objected to on the ground it is not germane to the issue; and an ex parte declaration, and is immaterial.

Exam. Sadler: The objection will be noted and the letter will be received as evidence and marked Commission's Exhibit No. 75.

(The letter referred to was thereupon received as evidence and marked Commission's Exhibit No. 75.)

Q. (By Mr. Taylor.) Mr. Miller, this letter states that request is being made—it states that the letter is being written in conformity with the request of Mr. Davis, do you know who Mr. Davis is, who is referred to there? (Handing witness paper.)

A. No, sir; I do not.

Q. What is this paper, which I now show you?
288 (Handing witness another paper.)

A. This is copy of a lettehr I wrote the Andalusia Packing Company July 20th, 1917.

Q. That is a carbon copy of the original letter which you sent to the Andalusia Packing Company?

A. Yes, sir.

Mr. Taylor: I offer this in evidence. (Handing same to respondent's counsel.)

Mr. Horton: Objected to, first, on the ground it is a carbon copy; second, the facts necessary to raise the presumption it has been received by the Andalusia Packing Company have not been shown; third, that it is an ex parte declaration and not material.

Mr. Taylor: I will fully answer the second objection when I offer the next exhibit, Mr. Examiner.

Exam. Sadler: The same ruling will be on this letter as upon previous letters marked for identification. Do you wish this letter to be marked for identification?

Mr. Taylor: Yes.

Exam. Sadler: This letter will be marked the letter L.

(The letter referred to was thereupon marked "L" for identification.) (Ex. 118.)

289 Q. (By Mr. Taylor) What is this paper which I now hand you, Mr. Miller?

A. It is a letter which I received from the Andalusia Packing Company under date of July 25th, 1917.

Q. Now, will you please again look at paper marked "L" for identification, and read the opening sentence of that letter of July 25th, and tell me whether or not that acknowledged receipt of the letter, copy of which is marked Exhibit "L"?

A. Yes; it does.

Mr. Taylor: I offer the letter of July 25th, 1917, from the Andalusia Packing Company, in evidence. (Handing letter to counsel for respondent.)

Mr. Horton: I object; first on the ground that it is an ex parte declaration and should not be received or admitted in evidence against the respondent; second, that it is hearsay and immaterial.

Mr. Taylor: The ex parte referred to is the Andalusia Packing Company?

Mr. Horton: Both parties.

Mr. Taylor: What two?

Mr. Horton: The Andalusia Packing Company and J. W. Clarke Company.

290 Exam. Sadler: The objection will be noted and the letter will be received as evidence and marked Commission's Exhibit No. 76.

(The letter referred to was thereupon received as evidence and marked Commission's Exhibit No. 76.)

Q. (By Mr. Taylor) What is this paper which I now hand you? (Handing witness a paper.)

A. This is a carbon copy of the letter I wrote the Andalusia Packing Company under date of July 28th, 1917.

Q. And that is replying to the same letter, which is received here as Exhibit 76?

A. Yes, sir.

Mr. Taylor: I offer the copy in evidence.

Mr. Horton: Objected to, first, on the ground it is a carbon copy; second, the facts necessary to raise the presumption of its receipt by the Andalusia Packing Company have not been shown; third, that it is an ex parte declaration; fourth, that it is hearsay and incompetent and not germaine to the issues.

Exam. Sadler: The ruling on this letter will be the same as on the previous letters marked for identification; and this letter will be marked the letter "M" for identification.

(The letter referred to was thereupon marked "M" for identification.) (Ex. 119.)

291 Q. (By Mr. Taylor) What is this paper which I now hand you? (Handing witness paper.)

A. This is a telegram received from the Andalusia Packing Company, July 31st, 1917.

Mr. Taylor: I offer this telegram in evidence. (Handing telegram to counsel for respondent.)

Mr. Horton: This is objected to, first upon the ground that it is not germane to the issues; it is hearsay and immaterial; second, that it is an ex parte declaration.

Mr. Taylor: Do you seriously urge that last objection notwithstanding the fact that Swift & Company owned all the stock of the Andalusia Packing Company at this time?

Exam. Sadler: The objection will be noted and the telegram will be received as evidence and marked Commission's Exhibit No. 77.

(The telegram referred to was thereupon received as evidence, and was marked Commission's Exhibit No. 77.)

Mr. Horton: It can be understood that my objections go to this entire line of exhibits, and I will not be bothered to repeat each one of them.

Exam. Sadler: Yes.

292 Mr. Haycraft: That is where there are carbon copies objected to.

Mr. Horton: That is if they are carbon copies, for the reasons I have heretofore stated.

Q. (By Mr. Taylor) What is this paper I now hand you, Mr. Miller? (Handing witness paper.)

A. This is a carbon copy of the letter I wrote the Andalusia Packing Company under date of August 9th, 1917.

Mr. Taylor: I offer this copy in evidence. (Handing same to respondent's counsel.)

Mr. Horton: We repeat our objections.

Exam. Sadler: The same ruling will apply to this letter as applies to letters marked for identification, and this letter will be marked letter "N" for identification. (Ex. 120.)

(The letter was thereupon marked the letter "N" for identification.)

Q. (By Mr. Taylor) What is the letter which I now hand you, Mr. Miller?

A. This is the letter we received from the Andalusia Packing Company under date of August 10th, 1917.

Mr. Taylor: I offer the letter in evidence. (Handing same to respondent's counsel.)

293 Mr. Horton: We repeat all the objections heretofore urged.

Exam. Sadler: The objection will be noted and the letter will be received as evidence and marked Comminssion's Exhibit No. 78.

(The letter referred to was thereupon received as evidence and marked Commission's Exhibit No. 78.)

Q. (By Mr. Taylor) Mr. Miller, will you now look at Commission's Exhibit "N" for identification, which I now hand you, also at Exhibit No. 78, which I also hand you, and tell me whether the letter of August 9th, to which Exhibit 78 is in reply, is the letter, copy of which appears as Commission's Exhibit "N", for identification.

A. Yes, sir.

Q. What is this paper which I now hand you? (Handing another paper.)

A. This is the letter we received from the Andalusia Packing Company under date of August 15th, 1917.

Q. And by "we" whom do you mean?

A. The J. W. Clarke Company.

Mr. Taylor: I offer this letter in evidence. (Handing same to counsel for respondent.)

Mr. Horton: We repeat all of the objections heretofore urged.

Exam. Sadler: The objections will be noted and the
294 letter will be received as evidence and marked Commission's Exhibit No. 79.

(The letter was thereupon received as evidence, and marked Commission's Exhibit 79.)

Q. (By Mr. Taylor) What is the paper which I now hand you? (Handing witness a paper.)

A. This is a carbon copy of a letter I wrote the Andalusia Packing Company under date of August 16th, 1917.

Q. By saying that you wrote it, you mean just what?

A. I wrote the letter for the J. W. Clarke Company as manager.

Q. And the original of that letter was mailed to the Andalusia Packing Company, was it?

A. Yes, sir.

Mr. Taylor: I offer the carbon copy in evidence. (Handing same to counsel for respondent.)

Mr. Horton: I repeat the objections heretofore urged.

Exam. Sadler: The objections will be noted and the same ruling will apply on this letter as on the previous letters marked for identification: and this letter will be marked "O" for identification. (Ex. 121.)

(The letter was thereupon marked "O" for identification.)

Q. (By Mr. Taylor) What is the paper now handed you?

295 A. This is a letter we received from the Andalusia Packing Company under date of August 17th, 1917.

Q. And that acknowledges receipt of a letter, does it not?

A. Yes, sir; it acknowledges receipt of J. W. Clarke Company letter of August 16th.

Q. Is that the same letter which is marked "O" for identification here?

A. Yes, sir.

Mr. Taylor: I offer the letter of the Andalusia Packing Company to J. W. Clarke Company of August 17th, 1917, in evidence. (Handing same to counsel for respondent.)

Mr. Horton: We repeat the objections heretofore urged.

Exam. Sadler: The objection will be noted and the letter will be received as evidence and marked Commission's Exhibit No. 80.

(The letter referred to was thereupon received as evidence, and marked Commission's Exhibit No. 80.)

Q. (By Mr. Taylor) What is the paper I now hand you? (Handing witness paper.)

A. Telegram we received from the Andalusia Packing

Company August 21st, 1917. When I say "we", I refer to the J. W. Clarke Company.

296 Q. And you refer to the J. W. Clarke Company in all cases in which you have said "we"?

A. Yes, sir.

Mr. Taylor: I offer the telegram in evidence. (Handing same to counsel for respondent.)

Mr. Horton: I repeat the objections heretofore urged.

Exam. Sadler: The objections will be noted and the telegram will be received as evidence and marked Commission's Exhibit No. 81.

(The telegram referred to was thereupon received as evidence, and marked Commission's Exhibit No. 81.)

Q. (By Mr. Taylor) What is the paper which I hand you, Mr. Miller?

A. It is the letter we received from the Andalusia Packing Company under date of August 21, 1917.

Mr. Taylor: I offer in evidence the letter of August 21, 1917, from the Andalusia Packing Company to the J. W. Clarke Company. (Handing same to counsel for respondent.)

Mr. Horton: I repeat the objections heretofore urged.

Exam. Sadler: The objections will be noted and the letter will be received as evidence and marked Commission's Exhibit No. 82.

297 (The letter referred to was thereupon received as evidence and marked Commission's Exhibit No. 82.)

Q. (By Mr. Taylor) What is the paper I hand you, Mr. Miller?

A. This is a letter we received from the Andalusia Packing Company under date of August 25th, 1917.

Mr. Taylor: I offer the letter in evidence of August 25th, 1917, from the Andalusia Packing Company to J. W. Clarke Company (handing same to counsel for respondent.)

Mr. Horton: We repeat the objections heretofore urged.

Exam. Sadler: The objections will be noted and the letter will be received as evidence and marked Commission's Exhibit No. 83.

(The letter referred to was thereupon received as evidence and marked Commission's Exhibit No. 83.)

Q. (By Mr. Taylor) What is this paper which I now hand you? (Handing witness paper.)

A. That is a telegram received from the Andalusia Packing Company, September 11th, 1917.

Q. Received by the J. W. Clarke Company?

A. Received by the J. W. Clarke Company; yes, sir.

Mr. Taylor: I offer in evidence the telegram of September 11th, 1917, from the Andalusia Packing Company to the
298 J. W. Clarke Company. (Handing same to counsel for respondent.)

Mr. Horton: We repeat the objections heretofore urged.

Exam. Sadler: The objections will be noted and the telegram will be received as evidence and marked Commission's Exhibit No. 84.

(The telegram referred to was thereupon received as evidence and marked Commission's Exhibit No. 84.)

Q. (By Mr. Taylor) What is this paper I now hand you? (Handing witness paper.)

A. This is a carbon copy of the letter that J. W. Clarke Company wrote the Andalusia Packing Company, September 12th, 1917.

Q. Written by the J. W. Clarke Company to the Andalusia Packing Company?

A. Yes, sir; I wrote it.

Mr. Taylor: I offer in evidence the carbon copy of the letter of September 12th, 1917, from the J. W. Clarke Company to the Andalusia Packing Company. (Handing letter to counsel for respondent.)

Mr. Horton: We repeat the objection heretofore urged.

Exam. Sadler: The same ruling on this letter as on the previous letters marked for identification; and this letter will be marked the letter "P" for identification.

299 (The letter was thereupon marked "P" for identification.) (Ex. 122.)

Q. By Mr. Taylor) What is the paper which I have handed you? (Handing witness paper.)

A. This is price list furnished the J. W. Clarke Company from the Andalusia Packing Company for September 8th, 1917.

Q. That is the price list prevailing on September 8th?

A. Yes, sir.

Q. And the Andalusia Packing Company sent that price list to the J. W. Clarke Company?

A. Yes, sir.

Mr. Taylor: I offer the price list in evidence. (Handing same to counsel for respondent.)

Q. (By Mr. Horton) This is the price list that prevailed for the week ending September 8th, 1917, is it not, Mr. Miller?

A. Yes, that is what it reads.

Mr. Horton: We object on the ground that it is not material to the issues in this case.

Exam. Sadler: The objection will be noted and the price list will be received as evidence and marked Commission's Exhibit No. 85.)

(The paper referred to was thereupon received as evidence and marked Commission's Exhibit 85.)

300 Q. (By Mr. Taylor) Mr. Miller, I hand you paper marked Commission's Exhibit "P" for identification, will you please read that over and state whether or not where you ask for price lists, you refer to the same character of price list, as the one which has been received in evidence as Commission's Exhibit No. 85? (Handing witness paper.)

A. I asked for a price list that would give us the selling price, including our commissions and freight; I was under the impression that this price list included that. We had some correspondence—or, there was some question as to whether that was the f.o.b Andalusia list or whether it was the Atlanta list, plus the freight.

Q. Had you been receiving price lists similar to this Exhibit 85?

A. Yes, sir.

Q. Up to the time of writing that letter of September 12th?

A. Yes, sir.

Q. How frequently did you receive these price lists—by "you" I mean the J. W. Clarke Company.

A. We received them practically every week; occasionally missed them.

Q. And what do these prices on here refer to? For
301 instance, we have pork loins 26. Is that 26½?

A. 26½, yes, sir.

Q. What does that mean, price of the last day, on the 8th of September, or the average price during the week?

A. Well, that means the price we were to sell them for the whole week. We received this price list the first of the week, it would have been about September 2nd.

Q. And that was proposed to be your sales instructions for the entire week?

A. Yes, sir.

Q. And you stated that you were to sell at the prices quoted there, is that your understanding?

A. Yes.

Q. Please state what this paper is (Handing witness another paper).

A. This is a letter that the J. W. Clarke Company received from the Andalusia Packing Company dated September 13th, 1917.

Mr. Taylor: I offer in evidence the letter of September 13th, 1917, from the Andalusia Packing Company to the J. W. Clarke Company. (Handing same to counsel for respondent.)

Mr. Horton: We repeat and renew all the objections heretofore urged.

302 Exam. Sadler: The objections will be noted, and the letter received as evidence and marked Commission's Exhibit No. 86.

(The letter referred to was thereupon received as evidence and marked Commission's Exhibit No. 86.)

Q. (By Mr. Taylor) What is the paper I show you, Mr. Miller?

A. This is carbon copy of a letter I wrote the Andalusia Packing Company under date of September 18th, 1917.

Q. You mean the J. W. Clarke Company, which you wrote as president?

A. Yes, sir.

Q. And general manager of the J. W. Clarke Company?

A. Yes, sir.

Mr. Taylor: I offer in evidence the carbon copy of the letter of September 18th, 1917, from the J. W. Clarke Company to the Andalusia Packing Company. (Handing letter to counsel for respondent.)

Mr. Horton: We repeat and renew the objections heretofore urged.

Exam. Sadler: The ruling will be the same on this letter as on the previous letters marked for identification; and this letter will be marked the letter "Q" for identification.

(The letter was thereupon marked "Q" for identificatification.) (Ex. 123.)

303 Q. (By Mr. Taylor) What is the paper I hand you, Mr. Miller?

A. This is a letter that the J. W. Clarke Company received from the Andalusia Packing Company dated September 21, 1917.

Mr. Taylor: I offer in evidence the letter of September 21st, 1917, from the Andalusia Packing Company to the J. W. Clarke Company. (Handing letter to counsel for respondent.)

Mr. Horton: We repeat and renew the objections heretofore urged.

Exam. Sadler: The objections will be noted and the letter will be received as evidence and marked Commission's Exhibit No. 87.

(The letter referred to was thereupon received as evidence, and marked Commission's Exhibit No. 87.)

Q. (By Mr. Taylor) Mr. Miller, referring again to this Exhibit No. 87, do you know whose initials those are, "G.D.R."?

A. I understand his name was G. D. Roberts.

Q. And are all of these letters from the Andalusia Packing Company about this period, having the initials G. D. R., does that all represent the same man, G. D. Roberts, as you know him?

A. Yes, sir.

Q. What is this paper I now show you? (Handing witness paper.)

304 A. This is a telegram that the J. W. Clarke Company received from the Andalusia Packing Company, September 19th, 1917.

Mr. Taylor: I offer in evidence the telegram of September 19th, 1917, from the Andalusia Packing Company to the J. W. Clarke Company, (handing same to counsel for respondent.)

Mr. Horton: We repeat and renew the objections heretofore urged.

Exam. Sadler: The objections will be noted and the telegram will be received as evidence and marked Commission's Exhibit No. 88.

(The telegram referred to was thereupon received as evidence, and marked Commission's Exhibit 88.)

Q. (By Mr. Taylor) What is the paper which I show you, Mr. Miller?

A. This is a letter received by the J. W. Clarke Company from the Andalusia Packing Company dated September 22nd, 1917.

Q. And I call your attention to the fact that that letter acknowledges receipt of a certain letter from the J. W. Clarke Company. Can you state whether or not the letter referred to is the letter of September 18th, regarding which you have testified, and which is marked "Q", for identification?

A. Yes, that is a reply to it.

305 Mr. Taylor: I offer in evidence the letter of September 22nd, 1917, from the Andalusia Packing Company to

the J. W. Clarke Company. (Handing same to counsel for respondent.)

Mr. Horton: We repeat and renew the objections heretofore urged.

Exam. Sadler: The objections will be noted and the letter will be received as evidence and marked Commission's Exhibit No. 89.

(The letter referred to was thereupon received as evidence and marked Commission's Exhibit No. 89.)

Q. (By Mr. Taylor) What is this paper which I now hand you, Mr. Miller?

A. This is a carbon copy of a letter I wrote to the Andalusia Packing Company under date of September 22nd, 1917.

Q. And, how did you sign that letter?

A. Signed "J. W. Clarke Company, bu F. O. Miller, President and General Manager."

Mr. Taylor: I offer in evidence the carbon copy of the letter of September 22nd, 1917, from the J. W. Clarke Company to the Andalusia Packing Company. (Handing same to counsel for respondent.)

Mr. Horton: We repeat the objections heretofore urged.

Exam. Sadler: Same ruling will be on this letter as on 306 previous letters marked for identification; and this letter will be marked letter "R" for identification.

(The letter was thereupon marked "R" for identification.) (Ex. 124.)

Q. (By Mr. Taylor) What is the paper which I hand you, Mr. Miller?

A. This is copy of a letter I wrote the Andalusia Packing Company under date of September 24th, 1917.

Mr. Taylor: I offer the carbon copy of the letter dated September 24th, 1917, from the J. W. Clarke Company to the Andalusia Packing Company. (Handing same to counsel for respondent.)

Mr. Horton: We repeat and renew the objections heretofore urged.

Exam. Sadler: The ruling on this letter will be the same as on the previous letters marked for identification; and this letter will be marked the letter "S" for identification.

(The letter was thereupon marked the letter "S" for identification.) (Ex. 125.)

Q. (By Mr. Taylor) What is the paper which I show you, Mr. Miller?

A. That is a letter that the J. W. Clarke Company re-
307 ceived from the Andalusia Packing Company under date of September 25th, 1917.

Q. And that letter acknowledges receipt of a letter of the J. W. Clarke Company of September 22nd, does it not?

A. Yes, sir.

Q. Do you know to what letter that refers?

A. It refers to our letter of September 22nd.

Q. The one that is marked "R" for identification?

A. The one that is marked "R" for identification?

Mr. Taylor: I offer in evidence the letter of September 25th, 1917, from the Andalusia Packing Company to the J. W. Clarke Company. (Handing same to counsel for respondent.)

Mr. Horton: We repeat and renew the objections.

Exam. Sadler: The objections will be noted and the letter will be received as evidence and marked Commission's Exhibit No. 90.

(The letter referred to was thereupon marked Commission's Exhibit No. 90, and was received as evidence.)

Q. (By Mr. Taylor) What is the paper which I now show you?

A. This is a letter that the J. W. Clarke Company received from the Andalusia Packing Company dated September 29th, 1917.

Q. And that letters acknowledges receipt of a certain
308 letter from the J. W. Clarke Company?

A. Yes, under date of September 24th.

Q. Do you know what letter that is, can you identify that letter?

A. It is in answer to the letter marked "S" for identification.

Q. The carbon copy which has just been offered here?

A. Yes, sir.

Mr. Taylor: I offer in evidence the letter of September 29th from the Andalusia Packing Company to the J. W. Clarke Company. (Handing same to counsel for respondent.)

Mr. Horton: We repeat the objections heretofore urged.

Exam. Sadler: The objections will be noted and the letter will be received as evidence and marked Commission's Exhibit No. 91.

(The letter referred to was thereupon received as evidence, and marked Commission's Exhibit No. 91.)

Q. (By Mr. Taylor) Mr. Miller, I call your attention again

to Commission's Exhibit 88, and will ask you whether or not the second word in the body of the telegram is a code word?

A. Yes.

Q. And above that word are two words in pencil, do you know whether those two words represent the code meaning of the word in the body of the telegram?

309 A. Yes, that is written out.

Q. And that telegrams, reading it and translating the code would be how?

A. "Answering, cannot ship this week, cannot supply local demand."

Q. Do you know how long that code has been in use?

A. For several years, that is the Cross code.

Q. And is it still in use?

A. Yes, it is still in use.

Q. Do you know how many years it has been?

A. It has been in use twenty years to my knowledge.

Q. Used generally by people in all lines of business or in certain lines?

A. Well it is principally packing house lines.

Q. Now, I show you another paper, what is that? (Handing witness a paper.)

A. This is a telegram received by the J. W. Clarke Company from the Andalusia Packing Company, dated October 4th, 1917.

Mr. Taylor: I offer in evidence the telegram of October 4th, 1917, from the Andalusia Packing Company to the J. W. Clarke Company. (Handing same to counsel for respondent.)

310 Mr. Horton: We repeat and renew the objections heretofore urged.

Exam. Sadler: The objections will be noted and the telegram will be received as evidence and marked Commission's Exhibit No. 92.

(The paper referred to was thereupon received as evidence and was marked Commission's Exhibit No. 92.)

Q. (By Mr. Taylor): And referring to Commission's Exhibit No. 92, will you make the same explanation as to the second word of the telegram that you gave in the preceding telegram, Exhibit 88?

A. This second word in this telegram is Cross code word "phosphor" and translated means "cannot ship."

Q. Do you know how long the Andalusia Packing Company was using that code?

A. No.
Q. Or when it began to use it?
A. I do not.
Q. And what is the paper I now hand you? (Handing witness paper.)
A. This is a letter that the J. W. Clarke Company wrote the Andalusia Packing Company under date of October 4th, 1917.
Q. Carbon copy of the letter?
311 A. Carbon copy.
Mr. Taylor: I offer in evidence the carbon copy of this letter. (Handing same to counsel for respondent.)
Mr. Horton: We repeat and renew the objections heretofore urged.
Exam. Sadler: The same ruling will be on this letter as on the previous letters marked for identification; and this letter will be marked letter "T" for identification.
(The letter was thereupon marked "T" for identification.) Ex. 126.
Q. (By Mr. Taylor): What is the paper I now hand you?
A. This is a telegram received by the J. W. Clarke Company from the Andalusia Packing Company dated October 8th, 1917.
Mr. Taylor: I offer in evidence the telegram referred to.
Mr. Horton: We repeat and renew the objections heretofore urged.
Exam. Sadler: The objections will be noted and the telegram will be received as evidence and marked Commission's Exhibit No. 93.
(The paper referred to was thereupon received as evidence and markd "Commission's Exhibit No. 93.")
Q. By Mr. Taylor): I call your attention again to Exhibit 93, the first word of that telegram is "Answering,"
312 do you know what that refers to? What it is answering? I also call your attention to paper marked "T" for identification, and will ask you to examine that. (Handing witness paper.)
A. This telegram is in answer to our letter of October 4th, and marked "T" for identification.
Q. What is the paper I now hand you? (Handing witness paper.)
A. This is a letter that the J. W. Clarke Company received from the Andalusia Packing Company dated October 12th, 1917.

Mr. Taylor: I offer in evidence the letter of October 12th, 1917, from the Andalusia Packing Company to the J. W. Clarke Company. (Handing same to counsel for respondent.)

Mr. Horton: We repeat and renew our objections heretofore urged.

Exam. Sadler: The objections will be noted and the letter will be received as evidence and marked Commission's Exhibit No. 94.

(The letter referred to was thereupon received as evidence and marked Commission's Exhibit No. 94.)

Q. (By Mr. Taylor): Will you please state what the paper is that I hand you?

A. It is a carbon copy of a letter that the J. W. Clarke Company wrote the Andalusia Packing Company under
313 date of October 15th, 1917.

Q. Was that letter mailed to the Andalusia Packing Company?

A. Yes, sir.

Mr. Taylor: I offer in evidence the copy of the letter referred to. (Handing same to counsel for respondent.)

Mr. Horton: We repeat and renew the objections heretofore urged.

Exam. Sadler: The same ruling on this letter as on the previous letters marked for identification; this letter will be marked letter "U" for identification.

(The letter was thereupon marked "U" for identification. Ex. 127.

Q. (By Mr. Taylor): What is the paper which I now hand you? (Handing witness paper.)

A. This is a letter that the J. W. Clarke Company received from the Andalusia Packing Company dated October 15th, 1917.

Mr. Taylor: I offer in evidence the letter of October 15th, 1917, from the Andalusia Packing Company to the J. W. Clarke Company, handing same to counsel for respondent.)

Mr. Horton: We repeat and renew the objections heretofore urged.

Exam. Sadler: The objections will be noted and the letter will be received as evidence and marked Commission's
314 Exhibit No. 95.

(The letter referred to was thereupon received as evidence and marked Commission's Exhibit No. 95.)

Q. (By Mr. Taylor): What is this paper, Mr. Miller, which I hand you? (Handing witness paper.)

A. This is a letter received by the J. W. Clarke Company from the Andalusia Packing Company under date of October 19th, 1917.

Mr. Taylor: I offer in evidence the letter of October 19th, 1917, from the Andalusia Packing Company to the J. W. Clarke Company. (Handing same to counsel for respondent.)

Mr. Horton: We repeat and renew the objections heretofore urged.

Exam. Sadler: The objections will be noted and the letter will be received as evidence and marked Commission's Exhibit No. 96.

(The letter referred to was thereupon received as evidence and marked Commission's Exhibit No. 96.)

Q. (By Mr. Taylor): Will you please examine the paper which I now hand you and state what it is?

A. This is carbon copy of the letter the J. W. Clarke Company wrote to Andalusia Packing Company, dated October 23rd, 1917.

Q. And the original of that was mailed to the Anda-
315 lusia Packing Company?

A. Yes.

Mr. Taylor: I offer in evidence the carbon copy referred to. (Handing same to counsel for respondent.)

Mr. Horton: We repeat and renew the objections heretofore urged.

Exam. Sadler: The ruling on this letter as on previous letters marked for identification; and this letter will be marked "V" for identification.

(The letter was thereupon marked "V" for identification.)

Q. (By Mr. Taylor): What is the paper I hand you? (Handing witness paper.)

A. This is copy of a letter that the J. W. Clarke Company wrote the Andalusia Packing under date of October 23rd, 1917.

Q. And the original of that was mailed to the Andalusia Packing Company?

A. Yes, sir.

Mr. Taylor: I offer in evidence the copy referred to. (Handing same to counsel for respondent.)

Mr. Horton: We object and renew the objections heretofore urged.

316 Exam. Sadler: The same ruling on this letter as on previous letters marked for identification. The letter will be marked the letter "W" for identification.

(The letter was thereupon marked "W" for identification.) Ex. 129.

Q. (By Mr. Taylor): What is the paper which I now hand you, Mr. Miller?

A. It is carbon copy of a letter that the J. W. Clarke Company wrote the Andalusia Packing Company under date of October 23rd, 1917.

Q. And mailed the original to the Andalusia Packing Company?

A. Yes, sir.

Mr. Taylor: I offer the copy in evidence. (Handing same to counsel for respondent.)

Mr. Horton: We repeat and renew the objections heretofore urged.

Exam. Sadler: The same ruling on this letter as on previous letters marked for identification, and the letter will be marked the letter "X" for identification.

(The letter was thereupon marked "X" for identification.) Ex. 130.

Q. (By Mr. Taylor): What is the paper I now show you, Mr. Miller? (Handing witness paper.)

A. It is carbon copy of a letter which the J. W. Clarke Company wrote the Andalusia Packing Company under 317 date of October 24th, 1917.

Q. And mailed it to the Andalusia Packing Company?

A. Yes.

Mr. Taylor: I offer in evidence a copy of the letter dated October 24th, 1917, from the J. W. Clarke Company to the Andalusia Packing Company. (Handing same to counsel for respondent.)

Mr. Horton: We repeat and renew the objections heretofore urged.

Exam. Sadler: The same ruling on this letter as on previous letters marked for identification; and the letter will be marked "Y" for identification.

(The letter was thereupon marked "Y" for identification.) Ex. 131.

Q. (By Mr. Taylor): What is the paper which I now hand you?

A. It is carbon copy of a letter that the J. W. Clarke Company wrote the Andalusia Packing Company under date of June 22nd, 1917.

Q. And mailed the original to the Andalusia Packing Company?

A. Yes, sir.

Mr. Taylor: I offer the copy in evidence. (Handing same to counsel for respondent.)

318 Mr. Horton: We repeat and renew the objections heretofore urged.

Exam. Sadler: The same ruling on this letter as on previous letters marked for identification; and this letter will be marked the letter "Z" for identification.

(The letter was thereupon marked "Z" for identification.) Ex. 132.

Q. (By Mr. Taylor): Mr. Miller, I now hand you copies of three letters of October 23rd, 1917, marked "V, W, and X" for identification; also the letter of October 24th, 1917, marked "Y" for identification, all being written by the J. W. Clarke Company to the Andalusia Packing Company, and ask you to read them over carefully and state as accurately as you can when you received the last shipment from the Andalusia Packing Company. (Handing witness papers.)

A. I think that this was the last car that we received from the Andalusia Packing Company, October 22nd, 1917.

Q. Have you any records from whence you can verify your recollection as to that, other than those letters?

A. No, sir.

Q. Where are your records, or the records of the J. W. Clarke Company?

A. Those old records of the J. W. Clarke Company have all been destroyed. They were stored in a warehouse

319 on Wall street, and the J. W. Clarke Company gave up the warehouse, and its old records have never been moved out.

Q. Have you searched for them?

A. Yes, sir. I went through the warehouse down there and was unable to find anything.

Q. Now, Mr. Miller, can you state about what the volume of your business was during any period just prior to October 22nd, the period about which you have just been testifying?

A. Well, in just a rough way, I haven't any records on it at all.

Q. What will you testify from your recollection?

A. Yes.

Q. Now, what is your best recollection as to the volume?

A. Well, we were getting only a small amount of stuff just prior to this date.

Q. Why were you getting only a small amount of stuff?
A. We were unable to get them to ship it.
Q. And back a year prior to that. What was your recollection as to the volume of business that you were then doing?
A. A year prior to that we were getting quite a lot of
320 products from down there.
Q. Well, please state as fully as you can what your recollection is as to the volume of business that you were transacting for the Andalusia Packing Company—state the average amount.
A. I should say off-hand anywhere from four to six thousand dollars a week.
Q. And what is that, the average amount or the actual amount for any given period?
A. Well, that is about what we were doing the year previous.
Q. The average throughout the year?
A. Yes, sir.
Q. About $6,000.00 a week.
Mr. Horton: No, he said from four to six thousand.
The Witness: From four to six.
Q. (By Mr. Taylor): From four to six thousand. What month would that year begin with?
A. My recollection is we began that account in August, 1916.
Q. Then, from August, 1916, to August, 1917, according to your best recollection, the volume of business would average about four to six thousand dollars a week?
A. Yes.
Mr. Taylor: Now, you may cross examine him, Mr. Horton.

321 *Cross-Examination.*

Q. (By Mr. Horton): Mr. Miller, you have been in the meat business quite a while?
A. Yes, sir.
Q. Well, you were in Atlanta here from 1913, was it?
A. Yes, sir.
Q. Now, do you know Armour & Company?
A. Yes, sir.
Q. Have they got a branch house here now?
A. Yes, sir.
Q. Did they have one in 1913?
A. Yes, sir.

Mr. Taylor: Mr. Examiner, I wish to object at this time to this line of examination, it is not proper cross examination and not within the scope of the direct examination, and has no bearing upon it. Of course if counsel for respondent desires at this time to make Mr. Miller his own witness and put him on to prove any facts outside of the scope of the direct examination I will not make any objection to it, because I realize that there will be perhaps considerable trouble and expense in getting him here again, to say nothing of taking Mr. Miller's time. We will be very glad to ac-
322 commodate counsel in that way.

Mr. Horton: Well, if the Examiner please, the witness is here to identify certain records and letters, and one thing and another, and his records have referred to competitors, the price that this competitor was making, the price that that competitor was getting; and one of the issues here is that competition was suppressed, and I submit that it is perfectly proper to cross examine this witness upon any of the issues; and furthermore, if I understand the matter correctly, it does not lie in the mouth of counsel for the Trade Commission to stand upon the strict rules of evidence in a case of this kind. I don't think it is the policy of the Trade Commission to cavil over such matters. It is a matter of putting it in the record and letting it speak for itself.

Mr. Taylor: All these letters, Mr. Examiner, written by the J. W. Clarke Company are still not in evidence, because of the objections of counsel for the respondent, and he is not in position to cross examine him as to those letters at the present time. We hope to get the originals of those letters and offer them through officers of the Andalusia Packing Company, and then he can cross examine the officers who identify them.

323 Exam. Sadler: The objection will be sustained. I wish to state that if counsel for the Respondent wishes to make Mr. Miller his witness, why I don't believe there would be any objection on the part of the counsel for the Commission.

Mr. Taylor: No objection whatever.

Exam. Sadler: The Examiner does not believe that the question asked by the Respondent's counsel is proper cross examination.

Mr. Horton: Do I understand that the Examiner will rule against me if I offer to show by the witness who these competitors are, who he was in competition with at any time

while he was selling the products of the Andalusia Packing Company?

Mr. Taylor: I wish to state, Mr. Examiner, in connection with the question of counsel for Respondent, that this witness has been asked no questions upon any of those subjects.

Exam. Sadler: It is the ruling of the Examiner that such questions would be outside the limits of the direct examination brought out by the Commission's counsel.

Mr. Horton: But, I suppose that reasonable minds might differ upon that proposition.

Exam. Sadler: Well, the Examiner rules that there wont be any argument on the question, and if counsel for the Respondent desires to take it up with the Commission he can do so later in his brief, when he appears before the Com-
324 mission.

Mr. Horton: Then, the effect of the Examiner's ruling is to deny me the right to question this witness upon the different concerns that he was in competition with? And to show what the competition was in this territory?

Exam. Sadler: If it was not brought out on direct examination, that would be my ruling.

Mr. Taylor: Only so far as cross examination is concerned.

Mr. Horton: I am not talking about what was or what was not brought out on direct examination. The Examiner must pass upon that question. I am asking point blank as to whether or not I may be allowed to cross examine this witness upon the question of competition in this territory, to show the concerns that were selling wholesale meats in the Atlanta territory.

Mr. Taylor: There is no disposition, Mr. Horton, to criticise you for objecting to those letters; I don't want you to get it in mind that there is, I have no desire whatever to criticise you, and do not criticise you, you are entirely within your rights, to make all the objections you have made.

Mr. Horton: If the Examiner is basing his ruling upon the fact that the letters were not in evidence, yet I submit that counsel for the Commission thinks that they will
325 be admitted in evidence when properly identified, and if it develops later that they are not admitted in evidence, and it further develops that my cross examination is based only upon the matters contained in those letters, then a motion to strike the testimony brought out in the cross examination would be in order.

Mr. Taylor: The originals of those letters will be subpoenaed, and when produced will be offered in evidence, and cross examination then will be proper to any subject referred to in the testimony of the witness producing them.

Mr. Horton: Will the Commission produce this witness for cross examination?

Mr. Taylor: They will subpoena the originals of these letters.

Mr. Horton: Will they produce this witness that I am cross examining as to these letters?

Mr. Taylor: No. This witness has not been examined as to competition.

Exam. Sadler: Counsel for the Respondent will be limited in his cross examination upon the testimony brought out on direct examination.

Mr. Horton: I submit that competition and competitors have been referred to upon direct examination.

326 Q. (By Mr. Horton.) Mr. Miller, was Armour & Company one of your competitors in Atlanta while you were representing the Andalusia Packing Company?

Mr. Taylor: That is objected to as not proper cross examination, of this witness, it being outside of the scope of the direct examination and new matter.

Exam. Sadler: The objection will be sustained.

Q. Was Morris & Company one of your competitors here while you were representing the Andalusia Packing Company?

Mr. Taylor: I object to that question on the same ground upon which I objected to the preceding question.

Exam. Sadler: The objection will be sustained.

Q. Was M. M. Stanaland one of your competitors here while you were representing the Andalusia Packing Company?

Mr. Taylor: I express and repeat the same objections to this question.

Exam. Sadler: The objection will be sustained.

Mr. Horton: Now, it is evident from the ruling of the Examiner that the Respondent is not going to be allowed to go into the question of competition in Atlanta territory, therefore I propose to state for the record what I propose to prove by this witness on examination, if the Respondent
327 had been allowed to pursue this line of inquiry.

Exam. Sadler: I would like to make a statement here, that, if the Respondent wants to make Mr. Miller his own

witness to bring out those facts, that it has not been brought out on the direct examination, and the Examiner rules that it would not be permissible on the cross examination at this time.

Mr. Taylor: And I will further state that if counsel for Respondent wishes to make Mr. Miller his own witness he may do so, and it will be without prejudice to his rights to disregard the testimony and move for the dismissal of the proceedings at the end of the Commission's case. In other words, that he shall be in no wise prejudiced by reason of having made Mr. Miller his witness at this time, except insofar as the testimony taken may affect the case, if it is actually used. The testimony may be disregarded as brought out.

Mr. Horton: What we propose to prove by the witness, that he was in competition in the Atlanta territory with the following concerns during the time he was handling the products of the Andalusia Packing Company: Armour & Company, Wilson & Company, and their predecessors, Schulzberger and Schwarzchilds, Morris & Company, Cudahy
328 Packing Company, Jacob Dole Packing Company, Kingan & Company, White Provision Company, M. M. Stanaland, C. P. Ozburn, W. A. Perkins, C. W. Wright, Cohen Brothers, or Max Cohen, and that all of the above concerns were handling both beef and products, and that they were in active competition with the witness in 1917 and '18. Further that the following concerns were handling what is known as Southern hogs or that is soft hogs. Armour & Company, White Provision Company, M. M. Stanaland, and Mitchell Brothers. And further, that at least a part of the time before referred to, the Statesboro Packing Company, the Waycross Packing Company, and Chipley Packing Company, all located in the South, were represented on the Atlantic market.

Q. (By Mr. Horton.) Mr. Miller, what was the condition of the market in the late summer and fall of 1917, as compared with the same period in 1916?

A. Just in what respect do you mean?

Q. With regard to demand, and the readiness with which sales were made.

A. Well there was more demand in 1917 than there was in 1916.

Q. Meat products were rather scarce at that time, were they not?

329 A. I don't know that they were scarce, but there was more demand on account of the Government work being done.

Q. Well, is it not true that the sales were made more readily, and that the supply was not so close upon demand?

A. Oh, I cannot say that it was. There seemed to be plenty of packing house products at that time.

Q. Is it not a fair statement to say that it was easier to sell goods?

A. Yes, sir.

Q. In 1917, than it was in 1916?

A. Yes, sir; there was more demand for it.

Q. And that was true generally all over the country, was it not?

A. Yes, sir.

Q. Now the figures that you have given of $4,000.00 to $6,000.00 per week average, what year was that?

A. That was from 1916, August, to August, 1917.

Q. And that is taken purely from your recollection?

A. Yes.

Q. And is your recollection clear, or is it a little bit hazy?

A. Well, it is not altogether clear, that is not far from the correct figures.

330 Q. Would a fair statement be that that is the best guess that you can make at it after all these years?

A. Yes, sir.

Redirect Examination.

Q. (By Mr. Taylor.) Mr. Miller it is quite fair to say that that is a guess or that it is an estimate from your recollection?

A. Well, it is an estimate. A guess and an estimate is about the same thing, as long as you haven't the exact figures.

Q. How do you estimate it?

A. Well, by figuring on the brokerage for one thing in connection with the number of consignments used, sold.

Q. Did you make a computation and figures, for the purpose of arriving at the estimate which you have expressed?

A. Yes, sir.

Q. And on what was that computation based?

A. I figured the average on the number of accounts, as

well as we had a record of, and estimated that those were approximately the same.

Q. And did you have an independent recollection of the amount of brokerage received?

A. Yes, in a general way.

331 Q. And did the two check out about the same?

A. Yes, sir.

Q. (By Mr. Horton.) Those figures included all packing house products?

A. Yes.

Q. Beef as well as pork?

A. Yes, sir.

Exam. Sadler: The witness will be excused.

(Witness excused.)

(Thereupon, at 5:40 o'clock P. M., the hearing was adjourned until 10:00 o'clock A. M., March 4th, 1921.)

332 W. A. GATLIN was called by the Commission as a witness at Atlanta, Georgia, on March 4, 1921, and having been duly sworn, testified in substance as follows:

(P. 418-429)

That he is engaged in the retail meat business in Atlanta under the trade name of Sanitary Market Company; that he sells fresh pork, beef, mutton, lamb, as well as cured meats, lard, etc.; that his weekly volume of business in fresh pork was about 4,000 pounds in 1916, and about 4,000 pounds in 1917 per week; that in May, 1915, he began dealing in what is known as soft or peanut-fed pork, which he purchased from Clark Company or Mr. Stanaland; that he handled this product continuously through the year 1915 and during the year 1916, and continued to buy this class of pork as long as Mr. Stanaland had it to sell; that during the Winter season, from October 1st until March 31st, about ninety per cent of the fresh pork he handled in 1916 and 1917 was soft or peanut-fed pork; that about ninety per cent of the cured pork products he handled during that period of time was Southern products; that at the present time about fifty per cent of the pork products handled is Southern pork purchased from Armour and some from the White Provision Company; that he now sometimes has trouble in securing Southern pork products; that there has always been about two (2) cents

333 difference between the price of Southern pork cuts and Western pork cuts with the exception of Southern fresh

pork hams which are usually about one (1) cent less than the Western fresh pork hams; that Southern cured hams and bacons were usually about four (4) cents cheaper than Western cured hams and bacons.

334 After Recess

2:00 o'clock P. M.

Exam. Sadler: The hearing will come to order.

F. A. LUCHSINGER, was thereupon called as a witness, and having been duly sworn, testified as follows:

Direct Examination.

Q. (By Mr. Taylor): Mr. Luchsinger, are you here as the result of subpoena served upon you?

A. Yes, sir.

Q. Have you the subpoena with you?

A. Yes, sir. (Witness producing a paper.)

Q. This subpoena is addressed to you care of Swift & Company, Moultrie, Georgia, is that your present address?

A. No, sir.

Q. What is your present address?

A. 206 Buford Place, Macon, Georgia, Post Office Box 885, Macon, Georgia.

Q. And you received this subpoena there?

A. I received the subpoena in Macon, yes, sir.

Q. And came from Macon here, pursuant to the subpoena. This subpoena calls upon you to produce certain things here, among others: "customers' ledgers and shipping books,
335 containing records of sales of meat and meat products of Moultrie Packing Company from the date of its incorporation until January 1st, 1918; also copies of letters to the trade, including brokers and customers' circulars or otherwise announcing any change in the business policy, management, or ownership of the Moultrie Packing Company, between June 1st, 1917, and January 1st, 1918." Did you bring any of those with you?

A. I have no records at all in my possession.

Q. What is your present business, Mr. Luchsinger?

A. Packing business.

Q. You are in business independently for yourself in Macon?

A. Well, it is independelty, yes and no, it is on a salary and commission arrangement.

Q. Were you formerly employed by Swift & Company?

A. Yes.

Q. During what period?

A. Well, from about February, 1901, to September, 1919.

Q. And were you at the main office in Chicago during a part of that time or all of it or any of it?

A. About seven years in Chicago.

Q. Now, going back to the month of May, 1917, were you in Chicago at that time?

336 A. Yes, sir.

Q. Do you recall a meeting held in the directors' room of Swift & Company, the respondent, on the 4th floor of the building on Tuesday, May 22nd, 1917, at 9:15 A. M.?

A. At a meeting about that date, I presume so.

Q. I show you Commission's Exhibit 28, will you please look at that and tell me whether or not it refreshes your recollection of such a meeting, and whether you attended such a meeting. (Handing witness a paper.)

A. Yes, I attended this meeting.

Q. Now, I call your attention to the second paragraph on the second page, in which the suggestion is made affecting you. You are the same Luchsinger referred to in that paragraph, are you not?

A. Yes, sir.

Q. And what did you do as a result of the suggestion there made?

A. Well, that is pretty broad. In what respect?

Q. Did you go to Alabama—to Moultrie?

A. Yes, sir, I went to Moultrie.

Q. Did you receive any instructions other than those at that meeting before going?

A. Nothing in writing, just some conversation.

337 Q. And who was the conversation had with?

A. Various parties there interested.

Q. Any of the officers of the corporation of Swift & Company?

A. Possibly G. F. Swift, Jr.

Q. How about Mr. Carr, did you have any talk with him?

A. Not that I remember before I went down there.

Q. Mr. H. C. Carr, I refer to. Now, when did you go to Moultrie?

A. I left Chicago on the 13th of June, 1917.

Q. And arrive at Moultrie when?

A. On the 15th of June, 1917.
Q. Who paid your fare down there?
A. Swift & Company.
Q. Who was paying your salary at that time?
A. Swift & Company.
Q. Did you see Mr. Carr at Moultrie from time to time after that?
A. No, sir; Mr. Carr was never in Moultrie during my time there.
Q. How long did you continue to receive salary from Swift & Company, after going to Moultrie?
A. Well, I received salary from Swift & Company all the time I was at Moultrie. Part on the Chicago payroll
338 and part on the Moultrie payroll.
Q. So you received a salary from both Swift & Company and from the Moultrie Packing Company.
A. Yes.
Q. Now you say all the time that you were there, was that so up to the time that you left?
A. Well, I considered it Swift & Company.
Q. Pardon me. Complete that answer.
A. I considered it Swift & Company while I was there, it was all handled as the Moultrie Packing Company.
Q. You considered that you were an employee of Swift & Company, do you mean?
A. Yes, sir.
Q. Now, what did you do at Moultrie, when you first went down there?
A. Well if I had an idea of exactly what you mean.
Q. Did you take charge of the plant?
A. No, sir; I didn't take active charge of the plant, no, sir.
Q. What were the nature of your duties?
A. I looked after my recommendations on change in construction, and I looked after organizing the plant, organizing the office, organizing the sales force. In other words,
339 putting in a Swift & Company system throughout the plant.
Q. And what was the condition of the sales department or sales force, when you went there?
A. Well it depended practically entirely on brokers.
Q. Do you recall who the brokers were, and where they were located?
A. A few of them; yes. There was M. M. Stanaland, in Atlanta, and Sam T. Smith, of Jacksonville, and I am not so

sure but he was at Savannah, or whether it was Dixon. I think Dixon was at Savannah, I am not positive on that point. They also had a brokers in Birmingham, whose name I do not recall, and a few other people in the way of wholesale grocery houses, but I do not remember their names.

Q. Now, after you had been there for a time, did you decide to change the method of selling?

A. The only method that was changed was to sell through Swift's branch houses instead of brokers, and later to put on salesmen of our own to handle the nearby territory.

Q. Can you recall about when that was that you came to that decision?

A. Oh, I would say along in September or October.

Mr. Horton: Just a second. I object to when the de-
340 cision was reached. The question is as to when it was carried into effect.

The Witness: There really wasn't any specific time for any decision to be set. If I felt like it on a Monday or Tuesday, why we changed.

Q. (By Mr. Taylor): Will you look at the papers which I now hand you and state what that is?

A. This is an inquiry . . .

Q. Just this letter.

A. Well, it refers here to paragraph 23, page 10, I don't remember what it was. What questions they asked, it must have been from the Federal Trade Commission, of Washington.

Q. Is that a reply of yours?

A. Yes, sir, this is a reply of mine.

Q. Are those initials on there your initials?

A. Yes, sir.

Q. Placed there by you?

A. Yes.

Q. Now then will you please look over the ten pages preceding the letter which you have just referred to, and tell me whose signature is affixed to those pages?

A. C. H. Wallow.

341 Q. Do you know the handwriting of Mr. Wallow?

A. Yes.

Q. You have seen him write?

A. Yes.

Q. And you know that that is his signature?

A. Yes, sir.

Q. Do you know what the document is that the signature is affixed to?

A. Not without reading it all over.

Q. Did you see him working on it? See Mr. Wallow working on it?

A. Not that I recall. I might have. In fact, I didn't pay any attention to it; I took it over for him to make out, as I recall it. I might have looked it over with him too, but I cannot remember.

Mr. Taylor: I offer in evidence the Federal Trade Commission's food investigation special report, schedule B, consisting of 10 pages, signed by Mr. C. H. Wallow, which have been identified by the witness. (Handing paper to counsel for respondent.)

Mr. Horton: Respondent objects to the introduction of the document in question on the ground that it is not germane to the issue and at least a part or all of the information asked for pertaining to the period prior to the time it is alleged that the respondent had anything to do with the Moultrie Packing Company.

342

Exam. Sadler: The objection will be noted.

Mr. Taylor: Mr. Examiner, in offering this document, I wish to state that there are certain notations appearing on various pages throughout the document which were added after the document left the hands of the Moultrie Packing Company, which it is not intended shall be considered a part of the exhibit. For instance, on the left-hand margin of page 2, there appear in black ink the words "Carded E. A. F.", immediately below this notation is one in red ink, on the last two lines of the page, there are certain other notations, part in black and part in red ink, which are not intended as included. Also at the upper right-hand corner on the second page there are certain initials which were not a part of the original paper. On page 4 are various notations in red and black ink, in the extreme left-hand margin, consisting largely of initials, and also near the upper right-hand side of the page are certain black ink initials over the word "Tob", all encircled in black ink, and none of these notations are intended as a part of the exhibit. On page 5, on the right-hand margin ap-

343

pear two notations, one in black ink, encircled, one in red ink, encircled in red ink, neither of which is intended to be included or is included. On page 8, on the left-hand margin, a notation in red ink, and certain initials included in the red ink circles, are not included. The letter is not included in this offer.

Exam. Sadler: The special report will be received as evidence and marked Commission's Exhibit No. 97.

(The report was thereupon received as evidence, and was marked Commission's Exhibit No. 97.)

Q. (By Mr. Taylor): Now, Mr. Luchsinger, returning again to this letter of October 5th, 1917, I will ask you to read paragraph 23, page 10, of Exhibit 97, and tell me whether that is the paragraph to which that letter answers, to the best of your recollection? (Handing witness paper.)

A. This letter answers paragraph 23.

Q. And it was written by you in answer to that paragraph, and mailed to the Federal Trade Commission?

A. Yes, sir.

Mr. Taylor: I offer in evidence the letter of October 5th, 1917, written by the Moultrie Packing Company by Mr. Luchsinger to the Federal Trade Commission.

Mr. Horton: The same objection as to Exhibit No. 97.

344 Exam. Sadler: The objection will be noted and the letter will be received as evidence and marked Commission's Exhibit No. 98.

(The letter referred to was thereupon received as evidence and was marked Commission's Exhibit No. 98.)

Q. (By Mr. Taylor): I show you (handing witness a paper)—will you please read that, and tell me what it is?

A. That is a letter written by me in response to paragraph 20, pages 10.

Q. I call your attention to page 10 of Exhibit 97, paragraph 20, and will ask you if that was written in answer to that paragraph?

A. Yes, sir.

Mr. Taylor: I offer in evidence the letter just identified by the witness.

Q. (By Mr. Taylor): Those are your initials, are they? "F. A. L.", attached to this letter?

A. Yes, sir.

Mr. Horton: The same objection.

Exam. Sadler: The objection will be noted and the letter received as evidence, and marked Commission's Exhibit No. 99.

(The letter referred to was thereupon received as evidence and marked Commission's Exhibit No. 99.)

Q. (By Mr. Taylor): Now, will you please state what this paper is that I now show you? (Handing witness paper.)

345 A. It is in answer to paragraph 19, page 10.

Q. And it is a letter written by you to the Federal Trade Commission?

A. To the Federal Trade Commission; yes, sir.
Q. And the initials attached thereto are your initials?
A. Yes, sir.
Q. And put there by you?
A. Yes, sir.
Q. And paragraph 19 or page 10, of Exhibit 97, is the paragraph referred to in the letter?
A. Yes, sir.
Mr. Taylor: I offer in evidence the letter just identified by the witness.
Mr. Horton: Same objections.
Exam. Sadler: The objections will be noted and the letter will be received as evidence and marked Commission's Exhibit No. 100.
(The letter referred to was received as evidence and marked Commission's Exhibit No. 100.)
Q. (By Mr. Taylor): I show you page 10 of certain papers, and will ask you whose name, if you know, is signed to that paper? (Handing witness paper.)
346 A. C. H. Wallow.
Q. And who is C. H. Wallow?
A. Who is he?
Q. Who was he at that time? On the 15th day of September, 1917?
A. He was secretary and treasurer.
Q. Of the Moultrie Packing Company?
A. Of the Moultrie Packing Company.
Q. And that is the same C. H. Wallow, whose name is signed to certain other papers that you have identified here today?
A. Yes, sir.
Q. Now, will you please look over these preceding pages and state whether you recall that report passing over your desk or through the office of the Moultrie Packing Company while you were there.
A. I don't remember; I might have seen this report, and maybe I did not. I do not recall it at the present time.
Q. Now, will you please look at the pages following page 10, and certain riders there, and tell me whether you identify them as being made in the office of the Moultrie Packing Company? They are on the Moultrie letter-head, are they not?
A. Yes, they are on the Moultrie letter-head.
Q. Can you identify them as the work of the Moul-
347 trie—of the office of the Moultrie Packing Company?
A. Yes, in view of the fact they are on Moultrie let-

ter-heads, otherwise I am not familiar with it. Right during the period in June and July I made several trips between Moultrie and Chicago, and was away a good deal, and possibly I seen them and possibly not.

Q. Now, I call your attention to a letter appearing here as page 24. (Handing witness paper.) Whose signature is attached to that, is affixed to that?

A. C. H. Wallow.

Q. The same C. H. Wallow whose signature appeared on page 10?

A. Yes, sir.

Q. (Handing witness paper): Now, I call your attention to page 26, and will ask you whose initials are affixed to that?

A. C. H. Wallow.

Q. And is that the handwriting of Mr. Wallow?

A. Yes, sir.

Q. And certain words are interlined in ink, in the last line, and the third line from the last line, is that also in Mr. Wallow's handwriting?

A. No.

Q. Do you know whose handwriting that is?

348 A. Yes; C. E. Hurst.

Q. Who was Mr. Hurst?

A. He was assistant to Mr. Wallow at that time.

Q. By that time, you mean February 20th, 1918?

A. Yes, sir; he was a former employee of the Macon Packing Company when we took it over.

Q. You mean Moultrie Packing Company?

A. Moultrie Packing Company.

Q. And by "we," you mean Swift &Company?

A. Yes.

Mr. Taylor: I offer in evidence the report just identified. (Handing same to counsel for respondent.)

Mr. Horton: We object to the introduction of this exhibit in evidence for the following reasons: First, that the report is not complete; second, that it has not been properly identified; and third, that it is not germane to the issues in this case relating for the most part to transactions that took place long before it is even alleged that respondent had anything to do with the Moultrie Packing Company.

Exam. Sadler: The objections will be noted and the report will be received as evidence and marked Commission's Exhibit No. 101.

349 (The document referred to was received as evidence and marked Commission's Exhibit 101.)

Mr. Taylor: Mr. Examiner, in offering this paper which appears here as received as Exhibit 101, I wish to state that there are also certain notations which are not intended to be included in the offer. On page 2, the right-hand margin are the letters "R. M. T." in black ink, incircled in a black ink circle, and in red certain other letters immediately beneath, on page 3, on the right-hand margin are two notations in red ink circles the notations themselves in red ink are not included. In page 4, on the right-hand margin there are certain notations in red ink, not included in the exhibit. On the right-hand margin on page 7, certain initials in black ink, encircled in black ink, immediately beneath them red ink notations are not included. On the left-hand margin of the page are also both initials and figures, and words in red and black ink, which are not included. On the upper part of page 8, near the left-hand upper corner, are certain initials in black ink, encircled in black ink circles, and in red ink, and encircled in red ink, which are not included. On the right-hand margin are certain initials in black ink, enclosed in black ink circles, which are not included, and red ink initials
350 immediately below the black ink circle, are not included.

Q (By Mr. Taylor): Mr. Luchsinger, I show you letter marked Commission's Exhibit No. 69, are those your initials which are signed to that letter?

A. Yes, sir.

Q. Do you remember signing that letter, and sending it?

A. Yes, sir.

Q. That letter is sent to Mr. Stanaland?

A. Stanaland.

Q. Do you recall whether Mr. Stanaland replied to that letter?

A. I don't remember offhand whether he did or not.

Q. I show you here a paper marked for identification "I". Will you please look at that paper and state whether or not that refreshes your recollection?

A. It does; we received this letter from Mr. Stanaland.

Q. You received the original letter of which this is a copy?

A. Yes.

Mr. Taylor: I now offer in evidence paper marked Commission's Exhibit "I" for identification. (Handing paper to counsel for respondent.)

Mr. Horton: We renew the objections heretofore urged as to Exhibit "I", marked "I" for identification.

351 Exam. Sadler: The letter heretofore marked "I" for identification, will now be received as evidence and marked Commission's Exhibit No. 102.

(The paper referred to was received as evidence and marked Commission's Exhibit No. 102.)

Mr. Taylor: Mr. Examiner, I will ask to withdraw Mr. Luchsinger for a moment as Mr. Smith is here with certain exhibits, pursuant to subpoena, which I would like to have introduced, and then recall Mr. Luchsinger, so that he may identify them.

Exam. Sadler: Any objection on the part of respondent?

Mr. Horton: No objection.

(The witness, Mr. E. A. Luchsinger, was thereupon withdrawn from the stand, to be recalled at a later time.)

T. A. SMITH, was thereupon called as a witness, and having been duly sworn, testified as follows:

Direct Examination.

Q. (By Mr. Taylor): Mr. Smith, do you appear here pursuant to subpoena? at this time in this proceeding, Mr. Smith?

A. Yes.

Q. And what is your address?

A. Moultrie, Georgia.

Q. And what is your business?

352 A. I am a bookkeeper for Swift & Company, employed by Swift & Company.

Q. And are these subpoenas, pursuant to which you appear (Handing witness papers)?

A. Yes, sir.

Q. Now, one of these subpoenas calls for you to produce the following papers: "The following letters received by the Moultrie Packing Company from M. M. Stanaland, letter dated October 6th, 1917; letter dated October 13th, 1917; letter dated October 20th, 1917; letter dated October 25th, 1917; and letter dated January 20th, 1917." Did you produce those letters?

A. No, sir.

Q. Why?

A. I could find no record of them in our office?

Q. Could you find any letters received from M. M. Stanaland about this period?

A. No, sir.

Q. Did you find the copies of any letters written to Mr. Stanaland about this period by the Moultrie Packing Company?

A. No, sir.

Q. Has the Moultrie Packing Company any letter
353 files with Mr. Stanaland at all?

A. No, sir; none that I could find.

Q. Has the Moultrie Packing Company any letter files or Swift—by the Moultrie Packing Company I mean either the Moultrie Packing Company or Swift & Company—any files or correspondence about the period mentioned, with regard to these letters for the month of October, 1917—from January, 1917, to October, 1917?

A. None that I could find.

Q. Were you able to find any correspondence files with anybody covering that period?

A. No, sir.

Q. Do you know what has become of the files or of the letters?

A. I cannot say about these specific letters, but all correspondence received during that period has been destroyed.

Q. And down to what period has correspondence been destroyed?

A. Well, I cannot say exactly, different classes of correspondence, at different times, but I will say that we haven't any correspondence of that nature earlier than or older than about the middle of 1918.

Q. 1918?

A. Yes, sir.

354 Q. By correspondence of that nature, do you mean correspondence between brokers of the Moultrie Packing Company and the Moultrie Packing Company?

A. Brokers or customers.

Q. Brokers or customers either?

A. Yes, sir.

Q. As a matter of fact, you have had no brokers since that time, have you?

A. No, sir.

Q. So that you have no correspondence with any of the brokers of the Moultrie Packing Company—is that correct?

A. Yes, sir.

Q. Now, have you correspondence with your customers since the middle of 1918, down to the present time?

A. We have some.

Q. On what basis do you select what shall be destroyed and what shall be kept?

A. I am unable to say just on what basis.

Q. As a matter of fact, is some of it destroyed, and some of it kept?

A. It is all kept for a certain period.

Q. For how long a period?

355 A. I would say not over two years.

Q. Now, this correspondence with customers, that you are talking about or correspondence with everybody?

A. Well I would say customers and possibly some with others too.

Q. I just want to get at the facts here, Mr. Smith. And is it fair to say that you haven't any correspondence at all over two years old?

A. I would not say positively that they have not any.

Q. Is it fair to say that you have no correspondence with customers at all over two years old?

A. None that I know of.

Q. Is the correspondence with officers of the Chicago house or main house of Swift & Company, destroyed, or is that kept for a longer period?

A. I say that depends upon the judgment of the particular party handling it. Certain corespondence that he might receive, he would judge to be of no future value, and would destroy it, possibly at the time he received it and possibly at any later time.

Q. And he might keep that indefinitely if he considered it of value?

A. He might; yes, sir.

356 Q. So you would say that there is no fixed rule with regard to correspondence heads of Swift & Company?

A. None that I am familiar with.

Q. Now, this other subpoena calls for customers' ledgers or shipping books, containing records of sales of meat and meat products from the Moultrie Packing Company from the date of its incorporation to January 1st, 1918. Have you those records with you?

A. I have the customers' ledgers.

Q. And will you please produce them?

A. They are in that trunk. Do you wish to bring them over?

Q. Yes, if you please.

A. (Witness going to a large trunk and producing various books.)

Q. And these are the books here on the desk, and to the back of you now?

A. Yes, sir.

Q. The subpoena also calls for copies of letters to trade, including brokers and customers, circular and otherwise, announcing any change in the business policy, management, or ownership of the Moultrie Packing Company between June 1st, 1917, and January 1st, 1918. Did you find any such copies of letters or papers or circulars?

357 A. No, sir.

Q. You were unable to find them?

A. Yes, sir.

Q. Would these have been destroyed in the ordinary course, the same as the correspondence that you testified about?

A. I think so.

Mr. Taylor: I will ask to withdraw Mr. Smith for the present, and have Mr. Luchsinger resume.

Mr. Horton: No objection.

F. A. LUCHSINGER, was thereupon recalled, and testified further as follows:

Further Direct Examination.

Q. (By Mr. Taylor): Mr. Luchsinger, will you please look at this book which I hand you and state what it is?

A. (Witness examining book): I am not familiar with this. This starts with the plant in 1914, October 15th.

Q. What does it go to, the last entries you find?

A. This runs from November 30th—I am not familiar with that record at all; looks like distribution of general business.

Q. It appears to cover to the end of about January, 1915. I ask that the book be marked for identification.

Exam. Sadler: The book will be marked A-1 for iden-

358 tification.

(The book was thereupon marked "A-1" for identification.)

Q. (By Mr. Taylor): Mr. Luchsinger, do you recognize this book as one of the ledgers of the Moultrie Packing Company? (Handing witness book.)

A. I am not familiar with the ledger, it was out of my line of work. I would say this looks like it, from the accounts on there, I was familiar in that respect only.

Q. According to the best of your knowledge, that is one of the ledgers of the Moultrie Packing Company?

A. Yes, sir.

Mr. Taylor: May I ask that that be marked for identification.

Exam. Sadler: The ledger will be marked "A-2" for identification.

(The ledger was thereupon marked "a-2" for identification.)

Q. (By Mr. Taylor): Do you recognize the book which I now hand you, as one of the ledgers of the Moultrie Packing Company?

A. Only from the fact that it is marked that way, is all I know. It was before my time down there.

Q. Do you recognize the accounts there as accounts of customers of the Moultrie Packing Company?

A. Yes, sir.

Q. And that is the same character of books that was
359 kept there by the Moultrie Packing Company during the time that you were there?

A. No, I would not say that that was the same character of books, it was along the same line.

Q. In what respect would you say it differed?

A. Well, the make-up of the sheets, possibly some difference.

Q. Will you please point out the difference?

A. Well, I could not offhand, unless I had the other sheets here with me, that they are using there now, or after—of course does go to 1918, which was used during my time there.

Q. Do you recognize that as one of the accounts there during your time?

A. Yes; I recognize that, Dr. Rathe of the city there, H. H. are the initials, January 16th, 1918.

Q. Look it over generally, and see whether you can recognize that as the ledger, or one of the ledgers of the Moultrie Packing Company.

A. (Witness examining the book): Yes.

Mr. Taylor: I ask that that be marked for identification.

A. (Witnesing continuing): I will state this much, that I am not familiar with the ledgers at all, I just know that they came from there.

360 Q. You simply know this is one of the ledgers of the Moultrie Packing Company?

A. I can't say that of all of them, due to the fact that Mr. Smith brought them up here.

Exam. Sadler: The book will be marked for identification "A-3".

(The book was thereupon marked "A-3" for identification.)

Q. (By Mr. Taylor): Mr. Luchsinger, did you examine the remaining volume produced here by Mr. Smith, one—two—three—four—to nine?

A. Yes.

Q. And do you recognize them as ledgers of the Moultrie Packing Company?

A. Yes, sir.

Q. You recognized certain of the accounts as accounts that were kept between the Moultrie Packing Company and its customers during the time that you were there?

A. Yes, sir.

Mr. Taylor: I will ask that they all be marked for identification; all these nine books.

Exam. Sadler: If there is no objection to the books being marked for identification under the letters "a-4" to
361 "A-13" inclusive, they will be so marked.

(The books remaining were thereupon marked according to direction "A-4" to A-13" for identification.)

Mr. Taylor: You may cross-examine, Mr. Horton.

Mr. Horton: No cross-examination.

Exam. Sadler: The witness will be excused.)

(Witness excused.)

T. A. SMITH was thereupon recalled for further direct examination, and testified as follows:

Q. (By Mr. Taylor): You have not stated what your business was?

A. Yes.

Q. Do you recognize that as one of the ledgers of the Moultrie Packing Company—"A-13"?

A. I don't know whether I can say I do or not. It is what was turned over to me as being one of those ledgers.

Q. By whom was it turned over to you as being one of the ledgers?

A. It is said to be that by Mr. Wallow?

Q. Mr. Wallow stated that this was one of the ledgers?

A. Yes, sir.

Q. And Mr. Wallow was at that time connected with the Moultrie Packing Company in what way?

362 A. He was connected with Swift & Company as auditor.

Q. Auditor of Swift & Company?

A. Yes, sir.

Q. And was he in charge of the Moultrie Plant of Swift & Company?

A. He was in charge of the accounting work there.

Q. Accounting work of Swift & Company?

A. Yes, sir.

Q. Now, when was it that Mr. Wallow turned those books over to you as the ledgers of the Moultrie plant of Swift & Company or of the Moultrie Packing Company?

A. About the middle of December, 1917.

Q. And you have since that been keeping the books of the Moultrie Packing Company, or the Moultrie Packing Company branch of Swift & Company?

A. I have kept the general ledgers and have done some work on the customers' ledgers.

Q. Now, what is this book that is before you. Would you characterize that as customers' ledger or general ledger?

363 T. A. SMITH was called as a witness for the Commission at Atlanta, Georgia, on March 14, 1921, and having been duly sworn testified in substance as follows:

(pp. 459-522 inclusive).

(Quote verbatim from record—Page 447 to page 458, to the question—"Now what is this book which is before you? Would you characterize that as a Customers Ledger or General Ledger?")

Reading from the Customers Ledger, the Moultrie Packing Company had customers during the year 1916 and down to June, 1917 in 252 towns and villages of the State of Georgia, in 56 towns and villages in the state of Florida, and in 15 towns and villages in the State of Alabama. Also identified account with M. M. Stanland in Commission's Exhibit A 3 for identification, marked as "Commission's Exhibit 104 and 104 A" and also Commission's Exhibit 105.—showing sales to Swift & Co. durign 1917.

364 10:00 o'clock A. M., March 7th, 1921.

The hearing was resumed.

Exam. Sadler: Gentlemen, we are ready to resume.

C. W. HARRISON was thereupon called as a witness, and having been first duly sworn, testified as follows:

Direct Examination.

Q. (By Mr. Haycraft): What is your business address, Mr. Harrison?

A. 216 Atlanta National Bank Building.

Q. What is your business?

A. I am employed by Swift & Company, district manager's office.

Q. Have you any title there?

A. None whatever.

Q. State briefly for the record just what your duties are, your functions in the office?

A. I am considered assistant to the district manager; my duties at present are handling correspondence in the office, visiting Swift & Company's branch houses in the Atlanta jurisdiction, as the representative of the district manager, and handling business matters on those occasions.

Q. How long have you been associated in that way with the district manager's office of Swift & Company?

365 A. Since August, 1917.

Q. Prior to that time, what had you been doing?

A. I was stenographer and clerk.

Q. In the same office?

A. In the same office.

Q. For how long a period?

A. Since November, 1914.

Q. So that since November, 1914, you have been continuously in the office of the district manager of Swift & Company here in Atlanta?

A. Yes, sir.

Q. Could you state for the record just what branches came within your jurisdiction, say about the time—say 1916 and 1917?

A. Yes sir; do you want me to do so?

Q. Yes.

A. Asheville, N. C., Atlanta, Ga., Augusta, Ga., Charles-

ton, S. C., Chattanooga, Tenn., Columbia, S. C., Columbus, Ga., Florence, S. C., Jacksonville, Fla., Macon, Ga., Knoxville, Tenn., Nashville, Tenn., Savannah, Ga., Spartanburg, S. C., Tampa, Fla., Valdosta, Ga.

Q. That would be six branch houses in Georgia and
366 two in Florida, would it not?

A. Six is correct.

Q. Now, has Swift & Company operated branches at all those places in Georgia and Florida continuously from that date to the present?

A. No sir.

Q. What are the exceptions?

A. There is no branch at Valdosta, Ga.

Q. When was that discontinued?

A. That was discontinued I think December 1st, 1918.

Q. Have there been any additions, have any other branches been opened in Georgia or Florida since that time?

A. There has been an addition at Miami, Fla.

Q. When was that established or opened up?

A. It was opened I think December, 1918.

Q. I show you a map of Georgia as gotten out by the United States Postoffice Department, and I will ask you to mark on there with a red pencil, the branches that you have indicated in the State of Georgia?

(The witness complied with this request of counsel).

Q. Now then, having this map before you, I would like to have you also indicate with a red pencil, as near as you
367 can, the approximate territory covered by each of those branches you have indicated on there; I don't want you to be exact, but I take it from your position in the district manager's office, you can give me approximately that information.

A. If you had told me that, I could have brought a map over here that shows you those territories; it is going to be mighty hard for me to get the dividing lines, I can give it to you approximately, but I won't say it is correct at all.

Q. Of course, in asking for this information as of 1916 and 1917, I only want it approximately, I am not particular about the exact lines.

A. I am not in a position to give it to you, I don't know, it would just be entirely guesswork; I couldn't give it to you for the present time accurately.

Q. But you think you could though by consulting the map that you have in your office?

A. For the present time, I couldn't for 1916 or 1917, I

don't know where the dividing lines come, I know there have been lots of changes, we change territories frequently.

Q. Well then, at each of these branches, did you have salesmen operating outside of the city proper?

A. Yes sir, we did.

368 Q. Take the Atlanta branch, how many salesmen did you have operating in the City of Atlanta?

A. I don't know, about eight.

Q. Unless I otherwise indicate, my questions now relate to that period of time during the years 1916 and 1917, as near as you can remember?

A. Well, I would say about five or six salesmen.

Q. Then, about that time, how many salesmen did you have operating outside the city of Atlanta?

A. About three or four.

Q. And as near as you can remember, about what territory did they cover, which roads did they go out on, and how far?

A. One salesman went north on the Southern Road to Toccoa and Tallulah Falls; another one went east on the Seaboard to Athens and Elberton; another one went east on the Georgia road, I don't know just how far, but to the dividing point from the territory of Augusta; another one went south on the Southern as far as Locust Grove, that is towards Macon; another one went south on the Central of Georgia road I think through Griffin; another one went south on the Atlanta & West Point Railroad to Newnan, as far as Newnan;

another one went west on the Southern, I don't know

369 how far; another one went west on the Seaboard, or west or northwest, the lines of the Southern and the Seaboard towards Birmingham; one travelled north on the N. C. & St. L. towards Chattanooga, and also the little Louisville & Nashville branch up there that branches off of Marietta, Woodstock, in that direction.

Q. Mr. Harrison, I notice that you have made a number of routes here, do I understand you to mean that each salesman covered each route?

A. Not necessarily, some of the larger ones they did, the smaller ones, the most sparsely settled routes, they would go out on one route and maybe circle and come back the other road.

Q. Now, take your branch house at Augusta, Ga., and give me an idea, first how many salesmen did you have operating in the city proper of Augusta at that time?

A. I don't know, in regard to 1916 and 1917, I don't know

except—I was simply a stenographer, and of course when reports from those branches came to the office, I opened them and pinned them together, I didn't check the reports at that time, I wasn't out on the road, and I wasn't familiar with the territories.

Q. When did you go on the road first?

370 A. August, 1917.

Q. Well, give us about August, 1917, your first recollection after that.

A. Well, I can't say about that, for this reason; the reason I was so well able to give you an answer on Atlanta was that I was in Atlanta all the time, and I am thoroughly familiar with the State of Georgia leading out, on the roads leading out of Atlanta, and all I know is that we were represented by given salesmen.

Q. At Augusta?

A. At Augusta, and each of our other branch houses; their names, their number and the route they travelled in 1916 and 1917, I am not in a position to say at all.

Q. You mean, would that be true of all other branches besides Atlanta, or would you have any independent recollection of some other branch?

A. About only one branch would I have an independent recollection, and that would be Columbus, Ga.

Q. Well, what is you recollection about Columbus?

A. Well, we had two or three salesmen travelling out of Columbus, one going north on the Central and Southern towards Atlanta, and I think the other took in Manches-

371 ter, and another one went east on the Central of Georgia towards Macon, the dividing line was about Butler, Ga.; another one went south on the Seabord in the direction of Buena Vista and Ellaville; one went over in Alabama, I don't know the name of the road, all I know is he went over there.

Q. Now, I notice from the position of these branches that they are very well scattered over the state; I will ask you whether or not Swift & Company at that time covered practically all the State with their salesmen in the sale of their goods?

A. Swift & Company covered practically all of the State through the medium of some sales representative.

Q. What do you mean by the medium of a sales representative?

A. If any portion of the State wasn't covered by salesmen from a branch house, they had brokerage arrangements with different concerns to market Swift & Company's products.

Q. At that time, were there any car routes operated in the State of Georgia?

A. I don't know.

Q. Now then, what products were sold by Swift & Company through those branches and through those salesmen that you have indicated?

372 A. Fresh beef, fresh pork, smoked pork, sausage, cooked hams, dried salt meat, pure lard, shortening or compound lard, cooking oils, produce.

Q. A full line?

A. Absolutely.

Q. I will ask you also to indicate on this map of Florida with a red pencil, the branches you operated there in 1916 and 1917.

(The witness complied with the foregoing request of counsel).

Q. Now then, can you state from your recollection as to the number of salesmen employed by those two branches at Jacksonville and Tampa?

A. In 1916 and 1917?

Q. In 1916 and 1917.

A. No sir.

Q. Do you remember whether or not there were salesmen employed at those branches?

A. I do; they had a corps of salesmen for the city and country territories, each branch house.

Q. Would you say the principal markets in the State of Florida were covered by Swift & Company's Salesmen in the same way in the sale of their goods?

373 A. What do you mean by principal markets, principal towns?

Q. Principal towns, yes sir.

A. They were.

Q. I note, by the way, that you did not have a branch house over towards Pensacola in the northwestern part of Florida; how was that territory covered?

A. Our Atlanta jurisdiction ended at the Apalachicola River, and I am not in a position to say.

Q. That would be in the Alabama territory?

A. Yes sir. Of course, I have heard that we had a branch in Pensacola, but I have no information to offer on that.

Q. That is what I wanted to get at. And the same products were sold through the branches in Florida that were sold through the branches in Georgia?

A. Yes sir.

Q. Now, you were served with a subpoena, Mr. Harrison, to produce certain records for this hearing; I will just read you that part of the subpoena which we require: Monthly statements showing the sales of meat and meat products by Swift & Company branches in Atlanta territory, during 1916, 1917, 1918 and 1919; have you produced those records?

A. No sir; I do have, however, the weekly records for 374 those years.

Q. For those years?

A. Yes sir.

Q. Will you produce those here now?

A. Here is 1918 and 19, and here is 1916 and 1917.

Q. Mr. Harrison, consulting the record which you have produced here in response to the subpoena, being weekly statements of the branch houses, will you state for the record the volume of fresh pork sold by the Augusta branch house the last week in January for the years 1916, 1917, 1918 and 1919.

A. 1916, 1917, 1918 and 1919, week of January 27th, 1916, you see the last week in January in some years was January 26th, and January 27th, and January 25th, and in 1919—you understand this is the last week in January.

Q. The question will show that.

A. 1916, 2,609 pounds; 1917, 1,883 pounds; 1918, 9,572 pounds; 1919, 7,666 pounds.

Q. Now, for the same period of time, will you state the volume of smoked meats sold through the Augusta, Ga., branch house?

A. 1916, 5,127 pounds; 1917, 5,198 pounds; 1918, 10,751 pounds; 1919, 12,348 pounds.

Q. Now, for the same period of time, please state the volume

375 C. W. HARRISON, called as a witness for the Commission at Atlanta, Georgia, on March 7, 1921, at 10 o'clock A. M., after having been duly sworn, testified in substance as follows:

(Quote testimony verbatim, Pages 523 to top of page 533). Abstract pp. 534-545, 584-631, 641-652, 657-713—inclusive.

That consulting the record which he had produced in response to the subpoena; namely, weekly statements of branch houses of Swift & Co. in his territory, stated for the record the volume of fresh pork, smoked meats, dry salt and bacon

meats and pure lard sold by the various branch houses operated by Swift & Co. in his territory (already enumerated) during the last week in the months of January, March, June and September during the years 1916, 1917, 1918 and 1919, which testimony by stipulation between counsel for Commission and respondent is omitted from the printed record.

Mr. Harrison testified that the volume of sales through Swift & Co. branch houses in 1916 were as follows:

Augusta, Ga., branch house	
Fresh pork	152,432 lbs.
Smoked meats	442,702 "
Dry salt & bacon meats	1,800,756 "
Pure lard	200,086 "
376 Atlanta, Ga., branch house, 1916	
Fresh pork	823,682
Smoked meats	327,698
Dry salt & bacon meats	1,235,264
Pure lard	488,603
Valdosta, Ga., branch house, 1916	
Fresh pork	none
Smoked meats	101,794
Dry salt & bacon meats	1,012,580
Pure lard	56,907
Macon, Ga., branch house, 1916	
Fresh pork	212,352
Smoked meats	353,925
Dry salt & bacon meats	2,474,363
Pure lard	186,760
Columbus, Ga., branch house, 1916	
Fresh pork	14,005
Smoked meats	95,661
Dry salt & bacon meats	936,875
Pure lard	85,305
377 Savannah, Ga., branch house, 1916.	
Fresh pork	158,355
Smoked meats	415,993
Dry salt & bacon meats	1,927,741
Pure lard	82,867
Jacksonville, Ga., branch house, 1916.	
Fresh pork	355,063
Smoked meats	1,101,489
Dry salt & bacon meats	2,064,885
Pure lard	224,874

Tampa, Fla., branch house, 1916.

Fresh pork	472,900
Smoked meats	1,185,547
Dry salt & bacon meats	756,333
Pure lard	175,093

378 W. C. VEREEN was thereupon called as a witness, and having been first duly sworn, testified as follows:

Direct Examination.

Q. (By Mr. Taylor): Mr. Vereem, what is your full name?

A. William Coachman Vereem.

Q. And what is your business?

A. Why, I am President of the Moultrie Banking Company, President of the Moultrie Cotton Mills, and President of the Colquitt County Cooperage Company.

Q. You reside at Moultrie?

A. Moultrie, yes sir.

Q. You at one time were president of the Moultrie Packing Company, were you not?

A. Yes sir.

Q. And were one of the moving factors in the organization of that corporation, were you not?

A. Yes sir.

Q. Will you please state about when that was organized, and the circumstances which led up to its organization?

A. Well, early in the year 1913, the latter part of 1912, our farmers began to become greatly discouraged on account of the boll weevil, which they knew would soon reach
379 our territory; the business men of Moultrie knew that something was necessary to be done in order to offset such injuries as might come to our community through the boll weevil, so we commenced investigating the packing industry. A committee of three was appointed by our local Chamber of Commerce in the summer of 1913, to go out West to examine some of the packing plants. I was one of that committee. We went to several places out West, and went through the plants, and tried to get such information as we could. We came back home, and we advised our people to build this plant; so we went ahead, and raised some funds, and organized the Company known as the Moultrie Packing Company, and early in the year of 1914, we commenced the

erection of our plant; the plant was completed, and we began operations on December 14th, I think it was, in 1914.

Q. Now, is this book which I show you—

Q. (By Mr. Horton): Have you finished your statement, Mr. Vereem?

A. Of course, there is more that I can tell right along.

Q. I would like to have the witness continue his statement just along the same lines.

A. I could go right along up until the time of the sale
380 of the plant.

Q. (By Mr. Taylor): I think the witness has quite fully answered the question which was asked him, he has come down to the time the plant was constructed, and I now desire to have him identify the minute book of the corporation.

Q. (By Mr. Horton): Your answer is not complete, Mr. Vereem, if you think you have not answered the question fully, I think you have a right to continue your answer until it is complete. (The testimony was read).

Mr. Taylor: The witness has recited the circumstances down to the time of the organization of the corporation, which I submit fully answered the question.

Mr. Vereem: I had fully stated some of the reasons which caused us, I hadn't gone into that in detail on some of the things I had stated to Mr. Taylor.

Q. (By Mr. Taylor): If there are any other circumstances that you desire to recite that you think are pertinent, it would be entirely proper for you to state them?

A. I just wanted to state that it was not the desire of any of the stockholders of the Moultrie Packing Company to get jobs for themselves; they didn't go into this packing company because they didn't have enough work to do, they
381 did it merely for the benefit of the country, to try to benefit the country, that was the idea of the promoters of this plant, and our hope was that after we got the plant in successful operation, to be able to sell it to some of the other packers, to take the thing off of our hands and carry it along, and thereby benefit the country, and leave us free to carry on our usual vocations.

Q. Now, as I understand your statement, there were two or three things that you desired to accomplish; first, you desired to provide a market for the sale of the hogs of Georgia?

A. Yes sir.

Q. In this vicinity?

A. Yes sir.

Q. You desired to bring them to your community for the benefit of a successful plant?

A. Yes sir.

Q. You desired to secure for the benefit of the Georgians the opportunity of buying this cheaper pork and this peanut fed pork?

A. Well, I don't know that we thought very much about giving them cheaper pork at all, but we had never heard so much about the difference at that time between hard
382 pork and soft pork, we just considered ours as good as any.

Q. Anyway, you wanted to give them an opportunity to buy it?

A. Sure, yes sir.

Q. Now, do you recall this book which I now show you?

A. Yes, this is the minute book of the Moultrie Packing Company, this is a copy I believe of their application for charter, which was granted, and that is a copy of the charter.

Q. This book is marked "E, for identification," the book which was identified at our hearing in Chicago on February 9th; you recognize your signature to these various minutes?

A. Yes sir, that is my signature.

Q. And entries throughout the book? Now, Mr. Vereem, will you please come down to the time when you first had an interview with a representative of Swift & Company?

A. Yes sir. Mr. Hunter came to Moultrie in the spring of 1917, and came to the packing plant, and I happened to be in the office, and he introduced himself.

Q. Do you recall what he said?

A. My recollection now is that he merely introduced himself, and stated that he was with Swift & Company, and that he had been to Cuba on a vacation, and was on his way back, and had known of our plant at Moultrie, and wanted to
383 see it, he came by there to see what we were doing, and asked if we would allow him to go through the plant, and permission was given him.

Q. Did he say Swift & Company of Chicago?

A. I don't know; I don't remember whether he said of Chicago or not, he said Swift & Company, I don't remember whether he said of Chicago or not.

Q. That you understood to mean Swift & Company of Chicago?

A. I didn't know but one Swift & Company.

Q. You didn't know there was any other?

A. No sir. He went through the plant, and looked at it,

and he came out, and thanked me for the courtesy. And some time later, several weeks later, I was in Atlanta, I was stopping at the Piedmont Hotel with one of my sons, and we were sitting in the front room of the Piedmont one night, when Mr. Kallmon, I believe it is spelled m o n, Kallmon, who was a broker representing Swift & Company in Albany, whom I knew very well, came in and saw me and spoke to me, and told me that Mr. Hunter, of Swift & Company, who had seen our plant, was there, and would like to talk to me. I told him I would be glad to talk with him, and he brought him right up where we were sitting, and we all sat there
384 and talked; Mr. Hunter asked me if I would like to sell the Moultrie Packing Company, and I told him for some reasons that I would, for the reason that I was the active head of the plant, had no one to take my place, and that my time was fully occupied outside of the work that I was doing for the packing company, it was really breaking me down, and I would be glad to sell if I could sell out to some one who would carry it on and operate it. He said he wanted to try to make a sale to Swift & Company of the plant, and would take it up with them and let me hear from him later. I heard nothing from him for several weeks. On the 14th of May, 1917, at night, Mr. Hunter called me up over the long distance phone from Montgomery, Ala., and asked me if I could meet Mr. L. F. Swift, the President of Swift & Company, in Jacksonville on the next morning.

Q. That was Jacksonville, Fla.?

A. Yes sir, Jacksonville, Fla., the next morning. I told him that I could. I went to Jacksonville the next morning, and met Mr. Swift at the Windsor Hotel; we talked over matters for some little time, and I got a map of all that country, and showed him where we were getting our hogs from, and told him about the number that we had killed. He asked
385 me then what I would take for the plant. I offered to take $150.00 a share for my stock, I told him I would sell mine at that, and believed that I could buy all the rest of it for him at the same price. He said he couldn't give that much for it, and we discussed the matter for some little time, and he finally told me, he said: "I will give you $125.00 per share for that stock, if you will take it." I said that was not enough, and I told him about what we had been earning there, and he then remarked to me, he said: "Don't you believe if I were to go to Albany, Ga. or Valdosta, Ga., and tell them that I would put up a packing plant there twice as large as the Moultrie plant, that they would give me fifty or seventy-

five thousand dollars?'' I thought a moment, and I said: ''Yes, Mr. Swift, I believe they would,'' for the reason that I knew that Albany and Valdosta at that time were very, very anxious to have a packing plant. After some further conversation, I agreed to give Mr. Swift an option until the first of June on the stock that I owned personally in the Moultrie Packing Company, and I also agreed to try to buy up for him at the same price, the stock held by the others, by others; I gave him an option on it, and I went back to Moultrie, and called a meeting of our Board of Directors, and went
386 over the conversation with Mr. Swift, and they agreed to accept the $125.00 for their holdings, and I at once began, took up with each stockholder, and finally secured their consent to sell at $125.00 per share just before the first of June.

Q. Now, have you that option with you, Mr. Vereem?

A. I have, yes sir.

Q. Will you produce it.

(Paper handed to counsel by witness).

Q. This option appears on the sheet of the Hotel Windsor letterhead, Hotel Windsor, Jacksonville, Fla., and written on the reverse side in handwriting; was that option written in your presence?

A. Yes sir.

Q. By whom was it written?

A. Mr. L. F. Swift wrote that copy, and I wrote up another copy of that in my handwriting, and gave it to Mr. Swift.

Q. You signed both copies, and Mr. Swift did the same?

A. Yes sir.

Q. That is the signature on the bottom of this?

A. That is my signature, yes.

Q. At the bottom of this option which I exhibit to you?

387 A. Yes sir.

Q. Now, will you please read that option?

A. ''Jacksonville, May 15th, 1917. In consideration of cash in hand paid, I hereby give F. A. Hunter an option good until June 2nd, 1917, on my 125 shares of stock of the Moultrie Packing Company, at $125.00 per share, and agree if possible to get all other stockholders to sign up as soon as possible, and all to be signed in a week if possible; and in no event is F. A. Hunter bound in any way to act unless I get all stock outstanding, supposed to be about $97,000.00. Above subject to audit of books to said F. A. Hunter's satisfaction,

my impression being that the books show a profit of about $90,000.00. (Signed) W. C. Vereen."

Q. You signed that in Mr. Swift's presence?

A. Yes sir.

Q. I observe that that option runs to F. A. Hunter, and not to Mr. Swift?

A. Yes sir.

Q. Was there any explanation made to you as to that?

A. No sir, none at all, Mr. Hunter was the man that I had talked to.

Q. Mr. Hunter was the man who had first come to see
388 your plant?

A. Yes sir.

Q. And whom you had subsequently talked to in Atlanta?

A. Yes sir, and over the phone from Montgomery.

Q. Now, I observe that on the opposite side of this paper, appears the name H. J. Nelson, U. S. yards; what significance does that have?

A. Mr. Swift told me that if it became necessary to have any correspondence relative to this sale, to address Mr. H. J. Nelson, Swift & Company, Union Stockyards, Chicago, Ill.

Q. And who wrote that name on the back of the option?

A. Mr. Louis F. Swift.

Q. Now, subsequently did you get together the larger portion of this stock?

A. Yes sir.

Q. Do you recall at the present time how much there was of it, or whether there was any of it outstanding?

A. Why, at the time that Swift & Company paid this money over on the stock?

Q. Yes.

A. Yes, there was, I think, my recollection is that there was ten shares belonging to the estate of W. T. Vick, and
389 I think there was five shares belonging to W. P. and O. N. Sloan, and five shares belonging to C. W. Williams. Sloan and Williams had lost their stock certificates, and had to come into court and get an order of court to have new certificates issued; Vick died, and we had to wait until his administrator could sell the stock at public outcry, and I had an agreement with the administrator to take over the stock at $125.00, and at the administrator's sale, I bid in the stock, Vick's stock, at $125.00 per share.

Q. Now, all of this stock which you have gotten together,

that was all of the stock excepting these twenty shares, you think?

A. I think that was all.

Q. You sent it to some bank in Chicago, did you not?

A. Yes sir.

Q. Do you recall what bank?

A. I think it was the Fort Dearborn National Bank.

Q. What instructions, do you recall the instructions on which you sent that?

A. Well, I am not very clear on that; my recollection is though that Swift & Company would pay over the amount, $100.00 per share.

390 Q. $100.00.

A. $125.00 per share.

Q. And upon the payment of that amount?

A. To deliver the stock to them.

Q. The stock was to be delivered?

A. Yes sir.

Q. And was the money subsequently returned by the bank to you?

A. Yes sir

Q. Now, do you know if Swift & Company sent certain representatives down here to Moultrie about this time, either just before or just after the sale of the stock?

A. Just after, some little time after the sale of this stock, Swift & Company sent down Mr. Mathis, who audited the books; they also sent down an architect who looked over the ground with the idea of making arrangements to enlarge the plant.

Q. When did Mr. Wallow first come down?

A. This option was given the 15th of May, and my recollection is that Mr. Wallow came down early in June.

Q. And Mr. Luchsinger came about the same time?

A. Mr. Luchsinger came with him, they came together,

391 some two or three weeks before we delivered the plant.

Q. Now, I show you here Exhibit No. 57, which is a copy of the first two pages of Mr. Mathis' report to Swift & Company, I will ask you to read it over, and tell me whether or not you were not mistaken as to the exact time when Mr. Mathis came down to examine the records (exhibiting paper to witness)?

A. I see here Mr. Mathis makes this audit May 28th and 29th, 1917; it is possible it might have been at that time; the first option expired June 2nd.

Q. June 2nd, yes.

A. June 2nd, and I extended that option until July 1st, and it is possible that Mr. Mathis was there making that audit before the first option expired, that is possibly correct as to that.

Q. And is it your recollection now that Mr. Mathis did come down and make an audit?

A. Oh, yes, I know that.

Q. Make an examination and an inventory of the goods inventoried?

A. Yes sir.

Q. And of the entire plant before the transaction was actually closed and the stock was purchased by Swift &
392 Company?

A. Oh, yes, yes sir.

Q. This exhibit is simply the first two pages of Mr. Mathis' report, in evidence, the first two pages?

A. Yes sir.

Q. I now show you Exhibit No. 53, I will ask you if you recognize that paper (exhibiting paper to witness)?

A. This is the financial report, I think I have seen this report here, I recollect Mr. Hall's signature there.

Q. What is Mr. Hall's first name?

A. Roland M. Hall.

Q. And that is addressed to you?

A. Yes sir, I think this is a statement that was handed to me.

Q. It was prepared by Mr. Hall, and sent to you?

A. Yes sir.

Q. Who was Mr. Hall?

A. Mr. Hall was one of our bookkeepers, he was with us I suppose about nine or ten months before the plant was sold.

Q. Did he remain after the plant was sold, do you recall?

A. For awhile, not very long.

Q. You were pretty closely in touch with the business and affairs of the Moultrie Packing Company, were you not,
393 during the time preceding the sale of the stock?

A. Yes sir.

Q. And supervised pretty carefully about everything that was done there?

A. Well, I did not so far as the killing was concerned; I had entire control of the finances, and to a large extent I looked after the sales.

Q. Now, tell us the policy of the selling organization, and

how the selling organization was made up, and the way in which the sales were secured?

A. We had brokers in a number of places, Atlanta, Macon—

Q. As you go, please name the brokers if you can recall them at the present time?

A. Well now, in Atlanta, we first had the J. W. Clark Company; later on, we had M. M. Stanaland; in Macon, we had Mr. Deidrich, I have forgotton his initials now; in Jacksonville, Fla., we had a man named Sam Smith I believe it was; and in Savannah, I know the man well enough in Savannah, but I can't think of his name now.

Q. Was it Dixon?

A. Mr. Dixon in Savannah.

Q. Do you remember his first name, or his initials?

394 A. I think his name was George, that is my recollection, but I am not positive of that. And I don't recall the Augusta broker's name, we never did much business there, and we didn't do a great deal in Birmingham, and I have forgotten his name. We had brokers also in Waycross, Fitzgerald, Albany, and a few other smaller places, we took in other towns around us, I don't recall all their names now.

Q. Can you state where the bulk of your sales were made, or at least what territory the heaviest part of the sales were made?

A. Well, we sold more in Atlanta and Jacksonville, I expect, that we did any other places; we didn't have a great many outlets, and wherever we could find a place that would take it, we shoved it there.

Q. Now, you sold goods other than through brokers, didn't you?

A. Oh, yes, we sold some, yes sir, we sold some direct, we had mail orders and telephone sales, and then we sold quite a lot of stuff to some of the packers.

Q. Now, your mail order and telephone sales, what territory did you make those sales in?

395 A. Well, most of those sales were made to some near-by towns, and frequently we would make some sales to some of the packers' branch houses.

Q. Do you recall some of the nearby towns in which these sales were made?

A. Why, yes, Pelham, and we used to sell the Hand Trading Company a good deal of stuff at times, and numbers of the small towns around, we would sell them some things.

Q. Do you know whether the customers' ledgers kept by

the Moultrie Packing Company would contain the sales, those mail order sales?

A. Yes sir.

Q. So that they would show the towns in which the various sales were made?

A. They would show that, yes sir.

Q. In that event, I won't trouble you with the details any more, as we have gone over those, and read them into the record as being the towns in which such sales were made.

A. Yes sir.

Cross-Examination.

Q. (By Mr. Horton): Is the packing plant still running at Moultrie now, Mr. Vereen?

A. Yes sir.

396 Q. It is now operated as Swift & Company, is it not?

A. Yes sir.

Q. I was very much interested in your testimony with regard to the reasons for organizing your plant, the upbuilding of the community.

A. Yes sir.

Q. Will you kindly explain that, and go a little further, please?

A. Our reasons for organizing?

Q. Yes sir, and its connection with the farmers.

A. Well, we knew that something had to be done, the boll weevil was getting in there, the farmers were discouraged, land values were going down, most of us had what we had invested in that section, and we wanted to save it, and we believed by the establishment of a packing house, thereby opening up the market for live stock, that our farmers would go into the livestock business, and thereby not suffer any losses, that they would merely change from cotton to live stock to a considerable extent, and that diversification would bring increased prosperity to the country; and we believed that we were not mistaken, after the establishment of the packing house, the farmers were encouraged, business became bet-

397 ter, the farmers who had to borrow money in the spring of the year for their cotton chopping, they quit borrowing it, they would sell a hog or two and get that money; it benefited them in many ways. Many of our people, many of our stockholders at first disliked to sell the plant, because they were proud of it, they thought it was a home institution, but I told them it was a physical impossibility for me to

continue to head it, and that if we could get a satisfactory price we must sell it; so on that account they all agreed, everything was entirely harmonious, and we sold, and our people are proud that we made the sale to them, to Swift & Company. Swift & Company have done everything in their power to help the farmers in that section, they have given out bulls, high grade bulls to be used in that section to improve the livestock, and they have done the same way with chickens.

Mr. Taylor: I think this is outside of the direct examination.

Q. (By Mr. Horton): I think this is very interesting. Continue, please.

A. Swift & Company have done just as we expected them to do, they have increased the capacity of that plant, and
398 they have helped in every way to build up that community. No one there regrets the sale of the plant, we are all glad of it, they have brought good citizens there, and we would like to get in some more just like them.

Mr. Taylor: I move to strike out the last portion of the reply as outside of the scope of direct examination, and not properly elicited by any questions on cross-examination, and not responsive to the question, and a voluntary statement.

Exam. Sadler: The motion to strike will be noted.

Q. (By Mr. Horton) About what is the population of Moultrie, Mr. Vereem?

A. The 1910 census showed a population of about 6,800; the town has grown beyond the limit lines now, and about 8,000 is the actual population.

Q. Now?

A. Now, yes sir.

Q. And has it grown since 1916?

A. Oh, yes, it has grown very much. Did I say the 1910 Census?

Q. Yes sir.

A. I should have said the 1920 Census; the 1910
399 Census was I think 3,345, that is approximately what it was in 1910.

Q. And is that the principal city in the country immediately surrounding there for a radius of forty or fifty miles?

A. Well, not for forty or fifty miles; it is the largest town in Colquitt County, and we have, take for instance a number of towns near us, Valdosta is about forty miles from us, that is a little larger than Moultrie, Thomasville is a

little larger than Moultrie, and it is about 28 miles; Albany is about 38 to 9 miles west, and it is some larger than Moultrie; Tifton is a little smaller than Moultrie; Gamilla and Pelham and those towns are smaller than Moultrie.

Q. Well now, what about your railroad facilities for the past five or six years, Mr. Vereem?

A. Well, we have now, the A. B. & A. Railroad, the Georgia Northern Railroad, the Georgia & Florida Railroad and the Valdosta, Moultrie & Western Railroad at the present time, we have had those railroads, we had them when this packing plant was erected.

Q. Now, what are the principal industries of Moultrie and vicinity now, and what were they for the past six or seven or eight years back?

Mr. Taylor: Mr. Examiner, I object to this as not
400 being cross-examination.

Mr. Horton: I think it is pertinent.

Mr. Taylor: It is pertinent in a sense, the evidence you are seeking to elicit as such.

Exam. Sadler: The objection will be sustained.

Q. In your direct examination, you spoke about the farmers in the vicinity of Moultrie; what percentage of your industry is farming, about Moultrie?

A. Well, that is an agricultural country, we have comparatively few manufacturing industries in our town, there is a cotton mill there, and a cottonseed oil mill, and a grain elevator and a barrel factory, and a canning plant and things of that kind, but it is essentially an agricultural country; it formerly was, just thirty years ago it was almost an unbroken pine forest, the turpentine business and the saw-mill business though has practically disappeared now, they were some years ago the leading industries.

Q. Then I understand you to say that the basic industry is agriculture?

A. Yes sir.

Q. And the products and branches of agriculture?

A. Yes sir.

401 Q. Now, you spoke about diversifying the crops, just how did that help the farmers, please, Mr. Vereen.

A. Well, diversification is always better, because a man doesn't stake his all on one thing, if he plants everything in cotton, the seasons might be bad for cotton, it might be too wet, or the boll weevil would be bad, and consequently he would make an unsatisfactory crop, or even if he made a good crop, the price might be low; it is always better to diver-

sify, and not to put all the eggs in one basket, because if he missed on one thing, he would be likely to hit on another.

Q. And that has proved correct?

A. Yes sir, that has proved very beneficial.

Q. Now, prior to the time this packing plant was built, where was the nearest livestock market of any consequence?

A. I don't know hardly that I could tell you that, I don't know of any livestock market where a man could have sold a carload of hogs nearer than New Orleans; don't understand me to say that I am making that positive statement, that there was none, but I don't recall any that was nearer than that.

Q. They would have had to ship a considerable distance in any event?

402 A. Yes sir.

Q. And I take it from your report that little livestock was shipped out of that section—I mean

A. Yes sir, very.

Q. Now, has there been a continuous cash market there since the packing plant was erected?

A. Ever since that plant started in December, 1914, there has been an everyday cash market.

Q. (By Mr. Taylor) For hogs?

A. For hogs and cattle.

Q. (By Mr. Horton): Is the livestock, the hogs and cattle about Moultrie increasing now, or decreasing?

A. They have decreased I am told in the last two years; they were increasing steadily, when we opened that plant in 1914, right along through 1915 and 1916, and up until we sold it in July, 1917, there was a steady increase, and I think there was an increase also in 1918 and possibly 1919, after Swift & Company took it, but I am told that the last year or year and a half there has been a decrease, that is my information, and I think by talking to the farmers or riding through the country, you will find that out.

Q. To what do you ascribe that?

403 A. To the high price of cotton entirely; whenever the Southern farmer can get 40 cents a pound for cotton, he will quit anything else in the world to go to it.

Q. (By Mr. Taylor): What is he getting for cotton now, Mr. Vereem?

A. Well, if he sells any now, it is down to about 11 or 12 cents, some grades lower than that even.

Q. Do you think that will cause him to return to hog raising again?

A. To a certain extent; he will never quit cotton; there is a peculiarity about the Southern farmer, he can miss on cotton every year, but he will never quit it, he can fail on hogs this year, and he won't touch them next year, or any other crop, but he will stick to cotton all the time.

Q. You can't get them away from it?

A. You can't do it.

Q. (By Mr. Horton): Now, did you try to sell this plant to any other packers other than Swift & Company?

Mr. Taylor: I object to that, on the ground that it is not proper cross-examination; it is assuming a fact contrary to the evidence, it is very clear from what Mr. Vereem has stated, that he didn't even try to sell it to Swift & Company, Swift & Company's representative
404 came to him and made the first suggestion.

Exam Sadler: The objection will be noted.

Q. Answer, please.

A. Yes sir, we were anxious to sell, and had had the matter up with Wilson & Company, and we even sent a man to Chicago to see Wilson & Company, to try to sell it to them; we had the matter up with another concern, I don't know who, they were not packers, and I never did know who they represented, they never would give me the name, but it was some concern in Pittsburg.

Q. Now, what success were you having in the marketing of your goods along about the time you first met Mr. Hunter and up until the time you sold your plant and a little prior thereto?

A. Well, we were selling right along; we managed to handle everything that we killed.

Q. Did you find that there were some products that moved more readily than others?

A. Oh, yes.

Q. Were you having trouble in moving any of the products?

A. No particular trouble at all.

Q. Now, with what financial success did you operate the plant?

405 A. Well, when I made the deal with Mr. Swift, I stated to him that our undivided profits at that time were approximately $90,000.00.

Q. Do you think you would have continued at that rate?

Mr. Taylor: I object to that.

Exam Sadler: The objection will be noted.

Q. You may answer, Mr. Vereen?

A. Well, I couldn't tell about that, I was going to try mighty hard to do it, but I couldn't tell; the field of prophesy you know is a dangerous one.

Q. (By Mr. Taylor): Anyway, you didn't feel that you were handing Swift & Company a lemon, did you?

A. No sir, we thought they got value received.

Q. (By Mr. Horton): It was a satisfactory deal all around, wasn't it, Mr. Vereem?

A. All around, on every side.

Q. The relations were very pleasant?

A. Very pleasant, and have continued so up until this very time.

Q. It was handled in a very pleasant way, and both parties lived up to their agreement, is that it?

A. Yes.

406 Q. Without any trouble at all?

Yes sir.

Q. I have here the minute book of the Moultrie Packing Company, Exhibit No. E for identification, and I call your attention to the minutes of the meeting held July 14th, 1916, and I note the following: "The president called attention to the large number of the Board of Directors who during the past season had personally endorsed paper for money borrowed out of Moultrie aggregating as much as $210,000.00, that all this special paper had been paid with the exception of $25,000.00 not due." Did you endorse some of the company's paper personally?

A. Yes sir, I endorsed a whole lot of it.

Q. At times, the whole of the year?

A. Oh, yes, the whole year; I endorsed $200,000.00 in the Atlanta National Bank at one time, as well as other places, endorsing them all around, there were several of the directors always signed with me, not the whole Board, but there were six or eight of them who did.

Q. Did that enter into your reason for wanting to sell also?

A. Yes, of course that was one of the reasons.

Q. As I understand it, the directors were taking a

407 heavy financial responsibility?

A. Yes sir.

Q. And that they were not getting any additional compensation for that?

A. That is true.

Q. It was to help out the community?

A. Yes sir.

Q. And if things happened to go wrong, and there happened to be a big loss there—

Mr. Taylor: We object to that question and all this line of examination, on the ground that it calls for speculation.

Exam. Sadler: The objection will be noted.

Q. There would be a heavy financial responsibility resting upon the directors?

A. Yes sir.

Q. Up until the time you sold the plant, did you have a rising market or a falling market?

Mr. Taylor: We object to that.

Exam. Sadler: The objection will be noted.

Mr. Vereem: Why, at times, we did have falling markets, then again we had advancing markets; the year that we sold out, my recollection is that prices were advancing.

408 Q. Advancing?

A. In the year we sold out, 1917.

Q. And in taking your inventory about the time the plant was sold, you figured your product on hand at the market prices?

A. Yes sir, I presume we did.

Q. But is it not true that the general trend of prices for livestock, and consequently of the dressed product thereof, was rising from say 1914 up to 1917?

Mr. Taylor: I submit that this is not the proper way to prove market prices.

Mr. Horton: I am just fixing the general trend.

Mr. Taylor: It is not proper cross-examination.

Exam. Sadler: The objection will be noted.

Q. Answer the question, Mr. Vereem?

A. You mean that there was a rising market now from the time we started?

Q. I don't mean that it was a continuously rising market, but the general trend was upward, is that right or not?

A. Well, during 1915, my recollection is that the trend was not upward then, but that the upward trend came on later, and possibly in the latter part of 1915 and through 1916, I think the trend was upward then.

409 Q. Up about until the time you sold the plant?

A. Yes sir.

Q. Now, I also call your attention again to the minutes of the meeting of stockholders held on July 14th, 1916; the president—

Mr. Taylor: I wish at this time to object to the read-

ing into the record of a portion of the minutes which are not already in evidence, it is not the proper way to get them into the record, this being outside of the scope of the direct examination and therefore not properly cross-examination.

Exam. Sadler: The objection will be sustained.

Q. By reference to the minute book, and refreshing your memory, will you give us the substance of your recommendation to the stockholders at the meeting of July 14th, 1916, with regard to market conditions?

Mr. Taylor: I wish to object to the question; first, it has not been shown that it is necessary for the witness to refresh his recollection by examining anything; second, the question is not proper cross-examination, it is without the scope of the direct examination, and has no relation to it.

Exam. Sadler: The objection will be noted.

410 Mr. Vereen: Do you want me to explain this, about the exceptional season?

Q. Yes sir.

A. Well, it seemed, as stated in the minutes here, that we had bought on a low market, and the prices of our products had advanced, consequently we sold them at better prices than we would have been able to have done had the market just remained steady; I didn't want our stockholders to think that we could have such results all the time, sometimes it might be less profitable than it was at that time.

Q. Now, in your direct examination, you said that Swift & Company sent some men down to take an inventory, and an architect to look over the plant and make arrangements for enlarging it; has that plant been enlarged since that time?

A. Oh, yes sir.

Mr. Taylor: That is objected to as being outside of the scope of the direct examination.

Exam. Sadler: The objection will be noted.

Q. Broadly to what extent?

A. Why, the plant has been doubled or more, possibly more than doubled in capacity.

Redirect Examination.

Q. (By Mr. Taylor): Mr. Vereen, you remained a
411 stockholder and an officer of the corporation after the sale of the stock to Swift & Company, did you not, at least on the records of the corporation?

A. For a little while, yes sir.

Q. As I recall, there were five shares of stock standing in your name; do you know who was the beneficial owner of those five shares of stock?

A. No sir, I do not; that stock was issued in my name and sent to Moultrie, and I of course did like a great many dummy directors in a railroad company, I endorsed it in blank and sent it back.

Q. Sent it back?

A. Sent it back.

Q. From whence it came?

A. Yes sir.

Q. Where did you send it to?

A. Well, my recollection is that I delivered that stock to Mr. Luchsinger, that is my recollection.

Q. Do you recall how long it was you remained president of the corporation?

A. No sir, I am not positive as to that; I expect the minute book will show possibly.

412 Q. It was only a short time?

A. Only a short time, yes sir.

Q. During that time, did you perform any real duties, or were they just perfunctory?

A. No sir, only just for ten days or two weeks possibly after the plant was delivered over to Swift & Company, I signed checks for them until they arranged the power of attorney for some one to sign the checks, I signed the checks for them.

Q. You did nothing else?

A. Nothing else, no, I did nothing else.

Q. You spoke a little while ago, in answer to one of Mr. Horton's questions, about having some negotiations with someone in Pittsburg regarding the sale of this Moultrie Packing Company?

A. Yes sir.

Q. Where did those negotiations arise and have their inception, who did you see first?

A. I didn't see anybody with that Pittsburg concern, it was all by correspondence; nor do I recall who the parties were.

Q. You do not recall who the parties were?

A. No sir, it was, it seems to me it was some Pittsburg Steam Pipe Company, they said they had a friend of

413 theirs that was interested, but I don't know who it was.

Q. This pipe company wrote to you up here?

A. Yes sir.
Q. Wanting to know—
A. If we wanted to sell the plant.
Q. If you were willing to sell?
A. What we would take for it, and I told them what we would take for it, and it was less than we sold it for, that was sometime before, and they finally wrote back and said their friend was not interested.
Q. Sometime before, when your earnings had not been quite as satisfactory?
A. Not quite as large, it was some months before that, yes sir; and then we had it up with Wilson & Company, and in fact I sent a man to Chicago to see Mr. Wilson.
Q. When was this that you sent someone to Wilson & Company?
A. In 1917, the spring of 1917.
Q. Do you recall more exactly the date?
A. No sir, I couldn't tell you exactly the date it was.
Q. It was before Mr. Hunter had been to you, wasn't it?
A. Yes sir, it was before I had seen Mr. Hunter, and possibly, I don't know, we had some correspondence after
414 I saw Mr. Hunter, I think possibly we did, I am not sure as to my dates on that, though, I know it was along in the spring of 1917.

Recross Examination.

Q. (By Mr. Horton): Mr. Vereen, you said that Swift & Company had done several things to help build up the live-stock in the country, and you mentioned that they had put out thoroughbred bulls?
A. Yes sir.
Q. Has the same thing been done with hogs?

Mr. Taylor: I object to this cross-examination; it is outside of the scope of the direct examination, and the answer that counsel for the Respondent is now endeavoring to elaborate is fully beyond the scope of the examination.

Mr. Horton: I don't think counsel should discriminate, if he lets the bull in, he ought to let the boar in.
Mr. Taylor: I move to strike out the bull.
Exam. Sadler: The objection and the motion to strike will be noted.
Mr. Veeren: I am not positive about the hogs, but my

impression is that they have, but I am not positive as to that, I know they have about the bulls and about the chickens.

Mr. Taylor: I move to strike out the impression.

415 Exam. Sadler: The motion to strike will be noted.

Q. Have they done anything to educate the farmers how to feed their hogs?

A. Oh, yes.

Mr. Taylor: That is objected to also on the same ground.

Exam. Sadler: The objection will be noted.

Mr. Vereen: Yes, they have done a wonderful work in that line.

Mr. Taylor: I move to strike out that answer.

Exam. Sadler: The motion to strike will be noted.

Exam. Sadler: Gentlemen, we will take a recess at this point, until 2:00 o'clock.

(Whereupon, at 12:45 P. M. a recess was taken until 2:00 o'clock P. M.)

After Recess 2:00 P. M.

Exam. Sadler: Gentlemen, we are ready to resume now.

C. W. HARRISON was thereupon recalled as a witness, and having been previously sworn, testified as follows:

Direct Examination (continued).

Q. (By Mr. Haycraft): Mr. Harrison, referring again to your (See abstract after p. 533)

416 C. P. OZBURN, called as a witness for the Commission at Atlanta, Georgia, March 9, 1921, after having been duly sworn, testified in substance as follows: (pp. 632-640)

That he was engaged in the wholesale meat business during 1916 and 1917, and that he at present is engaged in the retail meat business; that he had bought pork cuts and other supplies of M. M. Stanaland and Mr. Miller, who was handling the Andalusia Packing Company products; that he began buying those products when they first began shipping into Atlanta, and discontinued buying from Mr. Stanaland when

he discontinued the handling of the Moultrie Packing Company on account and stopped buying from Mr. Miller when he discontinued handling the Andalusia Packing Company account some time in 1917 or 1918; that the products purchased from Mr. Miller were soft pork or Georgia pork products; that he usually paid from two (2) to four (4) cents less for soft pork products than he paid for Western pork products; that after Mr. Stanaland and Mr. Miller stopped handling these two accounts he began to buy soft Georgia pork products from Armour and Swift & Company, and that later Mr. Stanaland came in with the Tifton account and Mr. Clark with a Chipley account, and that he bought from both of them; that it was about thirty days after Mr. Stanaland discontinued the Moultrie account that Swift & Company began
shipping Moultrie products into Atlanta to their own
417 branch house, and that he then bought from that branch
house; that he can now buy Georgia pork products from one (1) to two (2) cents under the price on Western pork products.

That the differential between the price of Western pork and Georgia pork depended on the condition of the market, whether it was overstocked and the demand was not strong.

418 10:00 o'clock A. M., March 8th, 1921.

Met pursuant to adjournment.

Exam. Sadler: Gentlemen, we are ready to resume.

Mr. Taylor: Before we start to proceed, I would like to have marked, extracts from the minutes of the Moultrie Packing Company, or rather from the minute book of the Moultrie Packing Company and the Andalusia Packing Company, which were offered and received in evidence at our hearing in Chicago, at that time, it was stipulated that copies should be received for original, the copies not then being present, it was not possible to have them marked as exhibits; I now have copies which have been prepared and agreed to by counsel as correct copies of the original extracts from the minute books, and I ask that they be marked.

Mr. Horton: I object on the ground that it is immaterial, incompetent, and not pertaining to the issues; there is no objection upon the ground that they are copies.

Exam. Sadler: I think your objection stands when they are introduced.

Mr. Horton: I think so.

(The copies of extracts from the minutes referred to were marked "Exhibits 31 to 49" inclusive, and are forwarded herewith)

419 Mr. Taylor: At this time, I wish to again offer as exhibits the carbon copies of letters written to the Moultrie Packing Company, which have been heretofore presented and marked for identification, F, G, H, and J, it appearing from the testimony of Mr. Smith, who was served with a subpoena duces tecum to produce the originals of these letters, that the originals are no longer in existence, and cannot be produced.

Mr. Horton: I object, first on the ground that carbon copies of the alleged letters are incompetent and immaterial, they are not within the issue; second, upon the ground that the facts necessary to raise a presumption of their receipt by the Moultrie Packing Company have not been shown; and third, on the ground that they are not the best evidence; fourth, that it has not been shown that if they passed between the parties at all, they passed in the usual and ordinary course of business.

Exam. Sadler: The objection will be noted, the letters will be received as evidence and marked Commission's Exhibits 105, 106, 107 and 108 respectively.

(The carbon copies of letters referred to were thereupon marked "Commission's Exhibits 105, 106, 10 7and 108" and are forwarded herewith.)

420 Mr. Taylor: Mr. Examiner, on yesterday, while Mr. Harrison was on the witness stand, he made a voluntary statement, elicited by no question, with regard to conditions I believe it was at Columbus; in view of the fact that I anticipate some of these questions on cross-examination may be made appropo to that statement, I move that that statement be stricken out.

Exam. Sadler: Any objections?

Mr. Horton: I object to striking the statement out.

Mr. Taylor: It was a statement which was not made in response to any question whatever, but was a voluntary statement by the witness, the statement has no proper place in the record, it was a statement which did not lay any foundation for any cross-examination, and I move that it be stricken out.

Mr. Horton: So far, no cross-examination has been based upon that statement; the statement referred to, as I recall it, came from the witness as an explanation of some of the figures that he was then reading into the record.

Mr. Taylor: Such explanation should properly come, if at all, on cross-examination anyway.

Mr. Horton: It may be either on direct or cross.

421 Exam. Sadler: The motion to strike will be sustained.

Mr. Horton: We certainly take an exception to that.

Mr. Taylor: I have nothing further to offer at this time.

Mr. Horton: At this time, I would like to make the request that I be furnished with copies of the exhibits that have been introduced in the record at this hearing, and I will make the same request for subsequent hearings, if there is any way in which this can be done; I understand that the reporters are not going to make copies here, but are going to forward the original exhibits to the Commission, and if there is any reasonable expense involved, I at this time offer to pay it.

Exam. Sadler: I will state that when the hearing is over, and we return to Washington, I can give the exhibits to the stenographic force to have them copied, and then forwarded to you.

Mr. Horton: That will be satisfactory.

Mr. Taylor: I would suggest, to avoid the possibility of confusion and doubt in the matter, that Counsel for Respondent furnish a list of the copies which he has not already received and which he desires; and of course for that purpose he will have access to the originals.

Exam. Sadler: I was just going to state that Mr. Hor-

422 ton has some of the exhibits on hand I believe at the present time, if he would furnish a list of the ones that are missing, we could make copies of them and forward them to him.

Mr. Horton: I have no copies of any of the exhibits that have been introduced at the Atlanta hearing; I have copies of all the exhibits that were introduced at the Chicago hearing.

Exam. Sadler: So you just want them from Atlanta?

Mr. Horton: From Atlanta.

Exam. Sadler: All right.

Mr. Horton: That was what I requested.

C. W. HARRISON was thereupon recalled as witness, and having been previously sworn, testified as follows:

Cross-Examination (cont'd).

See abstract after page 533

423 Exam. Sadler: Gentlemen, this hearing will adjourn until March 9th, 1921, at 11:00 o'clock A. M., in Birmingham, Ala., at Section A, dining room, Tutwiler Hotel.

425 BEFORE THE FEDERAL TRADE COMMISSION.

Federal Trade Commission,
Petitioner,
vs.
Swift & Company,
Defendant.
} Docket No. 453.

Birmingham, Alabama, March 9, 1921, 11 o'clock A. M.

Before:

C. T. Sadler, Examiner.

Met Pursuant to Notice.

Appearances:

A. N. Taylor and D. F. Haycraft, care of Federal Trade Commission, Washington, D. C., appearing for the Federal Trade Commission.

Frank L. Horton, Chicago, Illinois, appearing for Swift & Company.

426 Birmingham, Alabama, March 9, 1921, 11 o'clock A. M.

Examiner Sadler: The hearing will come to order.

J. L. THWEATT, being first duly sworn, testified as follows:

Q. (By Mr. Taylor): What is your name?
A. J. L. Thweatt.
Q. And your address?
A. Andalusia.
Q. What is your occupation, Mr. Thweatt?
A. Plant manager for Swift & Company at Andalusia.
Q. For how long have you occupied that position?
A. Since October 13, 1919.
Q. And prior to that time what was your occupation?
A. Sales manager of the Atlanta, Georgia, branch house.
Q. For Swift & Company?
A. Yes, sir.
Q. For how long a time?
A. Effective January 15, 1916.
Q. For what period did you say you were sales manager for Swift & Company at the Atlanta branch house?
427 A. From January 15, 1916, to October 13, 1919.
Q. And before that time what was your occupation?
A. From April 1, 1915, to January 15, 1916, I was general

salesman for C. N. Lavery, Swift & Company's district manager at Atlanta, Georgia.

Q. For what period?

A. From April 1, 1915, to the 15th of January, 1916.

Q. Were you selling Swift & Company's products during that time?

A. I was.

Q. What territory did you travel over during that period?

A. Georgia, Florida, South Carolina, and a part of Tennessee, and to one point in North Carolina; Asheville.

Q. And prior to that time, what was your occupation?

A. I was sales manager for Swift & Company at Greenville, Mississippi from December 1, 1914—no. You are getting back into ancient history now. Wait one minute. From December 1, 1914, to April 1, 1916. I will go over the record again. From April 1, 1916, to January 15, 1917, and from January 15, 1917, to October 13, 1919.

Q. You mean up to October 13, 1919, and since that time you have been at Andalusia.

428 A. Since October 13, 1919; yes, sir.

Q. And prior to December 1, 1914, what was your occupation?

A. I was produce salesman for E. P. Allen, general manager of Swift & Company, with headquarters in Birmingham, back to June 1, 1911.

Q. From June 1, 1911, down to what time?

A. Down to December 1, 1913,—I mean 1914.

Q. What territory did you cover at that time?

A. I covered thirteen branch house points in Alabama, Mississippi and Tennessee.

Q. Is the E. P. Allen to whom you have referred the same Mr. Allen who is present this morning?

A. Yes, sir.

Q. Is he now general manager for Swift & Company?

A. District manager of branch houses for Swift & Company with headquarters in Birmingham.

Q. Are the thirteen branch houses you mentioned the same thirteen branch houses now covered by Mr. Allen's district at the present time?

A. I don't know. He may have more or less. I have not had access to what he is working now.

Q. During the time you were sales manager for Swift
429 & Company at Greenville, Mississippi, what territory, did you cover from December, 1914, to April 1, 1916?

A. The territory immediately connected, with Greenville

as the distributing center, east of the Mississippi River, with a radius of about forty miles, east of the river.

Q. Now, taking this period from April 1, 1916, to January 15, 1917, when you covered Georgia, Florida, South Carolina, and possibly other states, the states you mentioned, what class of trade did you sell to?

A. The term "general salesman" is slightly ambiguous there. It was my duty to work with the regular branch salesmen, calling on the general retail trade. I did not work singly, but I simply worked with the branch house salesmen in calling on the retail trade of the various branches.

Q. Mr. Thweatt, you were brought here pursuant to subpoena, were you not?

A. Yes, sir.

Q. Those subpoenas called for certain documents, and I will read from the subpoenas the documents called for; customers' ledgers, shipping books, containing records of sales of meat and meat products at the Andalusia Packing Company from date of beginning business until March
430 30, 1918; also all correspondence between Andalusia Packing Company and E. P. Allen between the dates of May 1, 1917, and March 30, 1918, relating to the competitive conditions in the sale of meat and meat products in the City of Birmingham, Alabama, and relating to the purchase of the Andalusia Packing Company by Swift & Company; and also the following list of leters written by J. W. Clark & Company to Andalusia Packing Company, to-wit, letter dated June 22, 1917, relating to the price of meat; letter dated July 12, 1917, re sale of Andalusia Packing Company; letter dated July 1, 1917, replying to letter of the 16th of July; letter of the 16th of July from Andalusia Packing Company; letter dated July 28, 1917, acknowledging receipt of letter from Andalusia Packing Company, dated July 25th; letter dated August 9, 1917, relating to meat prices, and lard; letter dated August 16, 1917, acknowledging receipt of telegram of the 13th of July from Andalusia Packing Company; letter dated July 12, 1917, re market conditions; letter dated September 18, 1917, acknowledging receipt of letter of September 13th from Andalusia Packing Company; letter dated September 22, 1917, ordering car of pork products; letter dated
September 24, 1917, acknowledging receipt of letter from
431 the Andalusia Packing Company of September 22, 1917; letter dated October 4, 1917, acknowledging receipt of telegram from the Andalusia Packing Company; letter dated October 15, 1917, replying to letter from Andalusia Packing

Company of October 12, 1917; letter dated October 23, 1917, acknowledging receipt of invoice of eighty-three pigs from the Andalusia Packing Company; letter dated October 23, 1917, relating to the arrival of the car of pigs referred to above; letter dated October 23, 1917, acknowledging receipt of letter from Andalusia Packing Company, dated October 15, 1917; letter dated October 24, 1917, giving the prices of pigs; general ledger of the Andalusia Packing Company; also consignments reports of said company, of meat and meat products sold through brokers; also journal of said company covering the sales of meat and meat products during the years of 1916, 1917, and 1918.

Now, take up the first letters from J. W. Clark Company, to the Andalusia Packing Company, which have been mentioned in detail. Have you produced those letters?

A. No, sir.

Q. Take up the correspondence between Andalusia
432 Packing Company to E. P. Allen Company; have you produced that correspondence?

A. No, sir.

Q. Why?

A. We failed to find it in the records at Andalusia.

Q. Was search made of the records for the purpose of finding all those letters and the correspondence referred to?

A. Yes.

Q. Are you satisfied that no such letters or correspondence are in the records or files of the Andalusia Packing Company?

A. Yes.

Q. Is it the custom of the Andalusia Packing Company to destroy its records or letters and correspondence?

A. I cannot state for the Andalusia Packing Company, but it is the custom of Swift & Company to destroy the out of date correspondence from one year to eighteen months old.

Q. And Swift & Company is in charge of the Andalusia Packing Company?

A. Yes.

Q. Would all this correspondence come within the class of correspondence which would be destroyed by Swift
433 & Company within the time you mentioned?

A. I cannot say.

Q. From one year to eighteen months?

A. I cannot say. I had nothing to do with that; I don't know.

Q. Are you satisfied that this correspondence has all been destroyed?

A. Yes, I am satisfied it is not in the plant. In our possession, I mean.

Q. Referring to the books; have you the general ledger here?

A. We have that section exhibited.

Q. Is this the general ledger which you have produced here?

A. Yes.

Mr. Taylor: I ask that the book be marked for identification. (The book referred to was marked for identification "Exhibit A-15.")

Q. Do you want to qualify that statement?

A. No, I do not know that I would. That is the general ledger. The general ledger would be the record on this business. I think that is the general ledger on this business.

The general ledger on all our operations would more
434 than fill the room full. One sheet is a complete record of that part of it.

Q. What do you mean by that statement?

A. I say that is the general ledger of this subject matter.

Q. Described in the subpoena?

A. Yes.

Q. Containg the records?

A. Yes.

Q. Have you produced either the customers' ledgers or the shipping books containing the records of the sales of meat and meat products to the Andalusia Packing Company from the beginning of busines until March 30, 1918?

A. Yes.

Q. Which have you produced?

A. I have produced both.

Q. Mr. Thweatt, is this volume which I show you here the ledger, the sales ledger, for the Atlanta business,—the customers' ledger, I believe you call it, for the Atlanta, Georgia, business?

A. The customers' ledger for their broker, J. W. Clark Company, Atlanta.

Q. This is it?

A. Yes.

435 Mr. Taylor: I ask that this be marked "Exhibit A-16" for identification.

(The same was marked "Exhibit A-16" for identification.)

Q. Is this the customers' ledger of Birmingham showing the account of Mr. E. P. Allen & Company?

A. Yes.

Mr. Taylor: I ask that it be marked for identification.

Examiner Sadler: The book will be marked letter "A-17" for identification.

(The same was marked "Exhibit A-17" for identification.)

Q. What is this book I now show you, Mr. Thweatt?

A. This is the customers' ledger.

Mr. Taylor: I ask that it be marked for identification.

Examiner Sadler: The book will be marked "A-18" for identification.

(The book was marked "Exhibit A-18" for identification.)

Q. Have you also produced the consignment reports of the Andalusia Packing Company of meat and meat products sold through brokers; and also the journal of the company, covering sales of meat and meat products during the years 1916, 1917 and 1918?

436 A. This is the consignment reports.

Mr. Taylor: I ask that it be marked for identification.

Examiner Sadler: It will be marked for identification, letter "A-19."

(The same was marked "Exhibit A-19" for identification.)

Q. Now what is the book which I now hand you?

A. It is the journal entry book from October 14, 1916, until—I could only be correct by saying it covers through August 4, 1917. That is the last date appearing.

Q. Do you see any other later or subsequent entries without dates?

A. Yes.

Q. Are there a number of the entries without dates, made subsequently on the pages,—that is, after the last entry which bears a date?

A. Yes.

Q. Is there a later journal; that is, a journal containing similar entries covering later dates?

A. Not to my knowledge. Here are sixteen individual sheets. These seem to be subsequent to this entry. I could not swear this is complete there.

Q. Subsequent to the entry of August 4, 1917, and these are antedated; is that what you mean?

A. No, it is not.

437 Q. What do you mean?

A. There are sixteen additional entries in the back of the book.

Q. All appearing after the page bearing date of August 4, 1917?
A. Yes.
Q. Do they appear numerically?
A. Yes.
Q. The numbers on the pages are running consecutively after the page No. 193, which is dated August 4, 1917, from 194 to 210, both inclusive?
A. Yes.
Q. And every page is filled. Every page is filled with entries excepting the last page?
A. Yes, sir.
Q. Which is about two-thirds full?
A. Yes.
Q. That is, from page 194 to 210?
A. Yes.
Mr. Taylor: I ask that it be marked for identification.
Examiner Sadler: It will be marked letter "A-20" for identification.
(The same was marked "Exhibit A-20" for identification.)
Mr. Taylor: You may cross-examine, Mr. Horton.

438 *Cross-Examination.*

Q. (By Mr. Horton): Mr. Thweatt, you have been subpoenaed and brought here, have you not?
A. Yes.
Q. When did you receive the subpoenas?
A. Thursday of last week. What was last Thursday? Thursday, March 3rd.
Q. Did you receive them both on that date?
A. No, sir.
Q. Did you receive on that date a letter from them pertaining to the customers' ledgers?
A. Yes.
Q. When was the other subpoena given to you, calling for the general ledger of the Andalusia Packing Company?
A. March 9th.
Q. That is today?
A. Yes, sir.
Q. Since you have been here in this room?
A. Yes.
Q. Is this the one that Mr. Haycraft wrote out and handed to you a short time ago here?
A. Yes.

Q. I will ask you if the description of the documents
439 ments to be produced is in writing?

A. Yes.

Q. And whether or not the rest of the subpoena appears to be in typewriting, except the name of the witness?

A. Yes.

Mr. Taylor: Which subpoena do you refer to?

Mr. Horton: To the one which was given him today in this room.

Q. Did you see Mr. Haycraft when he filled this out a short time ago?

A. Yes.

Q. Did you see him write in there the description of the documents to be produced?

A. I saw him writing.

Q. On the subpoena?

A. Yes.

Q. Would you have produced all these documents if you had not been subpoenaed?

A. No.

Q. Would you have produced any if you had not been subpoenaed?

A. No.

Q. You would not you say?

A. No.

440 Mr. Horton: Now, Mr. Examiner, I call your attention to the law.

Mr. Taylor: Just one moment. Are you through with the cross-examination, Mr. Horton? If so, I would like to ask a few questions in re-direct before presenting it to the examiner.

Mr. Horton: Go ahead.

Mr. Taylor: Is that all the cross-examination you want to make?

M. Horton: That is all now.

Redirect Examination.

Q. (By Mr. Taylor): Mr. Thweatt, you did receive a subpoena on March 3rd, as you have testified, calling upon you to produce the customers ledgers, and the shipping books, containing the records of the sales of meats and meat products of the Andalusia Packing Company, from the date of beginning business until March 30, 1918; also describing certain correspondence to be produced?

A. Yes.

Q. That you received that on March 3rd?

A. Yes.

441 Q. You produced and had here today, before you received this subsequent subpoena referred to by Mr. Horton, all the books which have been identified here, did you not?

A. No, I don't say I produced them until they were officially turned over to you.

Q. They were brought here to the room and laid on the table?

A. Yes.

Q. These sheets were taken out,—rather, these books were taken out of the box and laid upon the table and submitted for examination before the further subpoena was given to you, were they not?

A. Yes.

Q. Now, it was after the books were laid upon the table here that this subsequent subpoena was prepared at the request of Mr. Horton, was it not?

A. Yes.

Mr. Taylor: That is all.

The Witness: Prior to the opening of this meeting.

Q. Before the hearing was actually called to order?

A. Yes.

Mr. Taylor: That is all.

442 Mr. Horton: I respectfully beg to contradict counsel when he said the subpoena was made at my request. It was not so made.

Mr. Examiner, I call attention to the law: first, the Federal Trade Commission Act, Section 9, in which it states: "the commission shall have power to require the subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. Any member of the commission may sign subpoenas, and members and examiners of the commission may administer oaths and affirmations, examine witnesses, and receive evidence."

I also call attention to the rules of the Federal Trade Commission, Section (in numerals) 7: which states in part:

"Subpoenas for the production of documentary (unless directed to issue by a commissioner upon upon his own motion) will issue only upon application in writing, which must be verified, and must specify as nearly as may be the documents desired, and the facts to be proved by them."

I respectfully submit that these subpoenas are invalid. I respectfully submit that counsel for the Federal Trade has been going about with blank subpoenas in his pocket
443 which have been signed by Victor Murdock, one of the members of the commission. I submit that the law contemplates no such use of this very powerful writ. I protest against the production of these documents. I object to their use in this proceeding as being in contravention of the Constitution of the United States, and a violation of the search and seizure act, and as being incompetent in evidence. I further state that Mr. Haycraft, one of the counsel for the Commission, filled out the name of the witness, and the description of the documents to be produced, in my presence in the case of the subpoence which calls for the general ledger and the journal. I also state it is a fact that the same thing was done with the subpoena which calls for the production of the customers' ledgers, in certain matters.

Mr. Haycraft: Mr. Examiner, in answer to the statement of counsel for the respondent, I desire to call his attention to the same rules he has read; in the first place, authority is given the commissioners to sign the subpoenas; in the next place, the commissioner may sign the subpoena upon his own motion. These subpoenas with which certain documents were called for, were furnished myself and Mr. Taylor by Commissioner Murdock, and which I suppose were prepared on his own motion. Mr. interpretation of the paragraph
444 which is read by Mr. Horton would be that if the respondent or its counsel desired to have subpoenas issued for witnesses to be examined, it would be necessary to present in writing to the commission a memorandum setting forth the nature of the evidence to be subpoenaed, and the names of the witnesses. His statement with regard to the subpoenas which we are using I think answers his objection. With regard to the subpoena prepared this morning by myself, I desire to state that the documents which have been identified by the witness, Mr. Thweatt, were produced by him, as he stated in the examination, in answer to the first subpoena which he received on March 3rd, and they were laid upon the table, and I personally examined every one with the exception of the general ledger which was tied up with the cord, and as I went to examine it, counsel for respondent requestted me not to do it, he did not think it was covered with the subpoena. Then I stated I would prepare a subpoena to cover it, and he answered that he did not know whether I

could or not. I thereupon prepared and served the subpoena and after I served it, being of the opinion that he might wish to make the same objection to the other two books, I asked if he wanted them included in another subpoena, and
445 thereupon I did include them in the second subpoena, so there would be no question in the minds of any of us, whether the documents were subpoenaed at this hearing.

Mr. Horton: I understand that you admit, Mr. Haycraft, that these subpoenas are blanks, signed by Commissioner Murdock?

Mr. Haycraft: Yes, I admit it is the custom of the commission since its inception.

Mr. Horton: We stand upon our constitutional rights, Mr. Examiner. We protest that these documents have not been properly subpoenaed; that they have been brought here on a void subpoena, and we object to the use of them.

The Examiner: The objections will be noted. Any other cross-examination, or redirect examination?

Mr. Taylor: In the subpoenas which have been referred to by counsel for respondent and by Mr. Haycraft, the names of the respondents, the number of the docket, the name of the examiner before whom the witness is required to appear, that the witness is required to appear at the instance of the Federal Trade Commission, in the particular proceeding, designating it by name, and also the date on which the subpoenas were signed, were all inserted before the subpoenas were signed by the commissioner. The only thing left
446 blank is the name of the witness, and the date of the particular place of the hearing, and the description of the documents to be produced.

Mr. Horton: I understand that applies on all the subpoenas so far served in this case?

Mr. Taylor: That is my understanding, it applies to all subpoenas which were signed in this case at all.

Mr. Haycraft: Some do not contain the name of the examiner.

Mr. Taylor: Perhaps a few were signed which do not contain the name of the examiner.

Mr. Horton: With the knowledge which has now come to the respondent, Mr. Examiner, we wish to extend our objection to all the subpoenas which have been used in the case, and all the documents which have been produced in pursuance of the subpoenas.

Mr. Haycraft: To correct a mistaken impression which

counsel seems to have, I will state there were a few subpoenas served in this case, which do not name all the witnesses, documents to be produced, and the place of hearing. It is manifestly impossible in a case of this kind to prepare a case in Washington before the subpoenas are submitted to the commissioners, where you would know the name of all the
447 witnesses and a full description of all the documents to be produced, and the place and time of each hearing.

Mr. Horton: I admit it might be inconvenient. I submit it is not impossible. I further submit that the law intends no such broad power to be given to counsel for the Commission.

Examiner Sadler: The objections will be noted.

Mr. Horton: Mr. Examiner, at this time I will further state that in any examination, direct, cross, or redirect, or otherwise, which we may make of any witness in all similar circumstances, from now to the time the record is closed that we shall do so without prejudice to our right to urge this objection at the proper time.

Examiner Sadler: Yes. The hearing will recess now until two o'clock this afternoon.

---

448 Wednesday, March 9, 1921, 2:00 o'clock P. M.

Met pursuant to recess.

Examiner Sadler: The hearing will come to order.

Cross-Examination by Mr. Horton.

Q. Mr. Thweatt, you are not a bookkeeper, are you?
A. No sir.
Q. You have not kept the books that you have produced here?
No.
Q. Entries are not in your handwriting?
A. No.
Q. Were they made under your direction?
A. No.
Mr. Horton: That is all.
Examiner Sadler: Any further redirect?
Mr. Taylor: None at this time.
Examiner Sadler: The witness will be excused.
(Witness excused.)

449 EDGAR P. ALLEN called as a witness, having been first duly sworn, testified as follows:

Direct Examination by Mr. Taylor.

Q. What is your full name, Mr. Allen?
A. Edgar P. Allen.
Q. Where do you reside?
A. In Birmingham.
Q. What is your business?
A. Brokerage business.
Q. What kind of brokerage business?
A. Brokerage business, selling packing house products, and so on.
Q. How long have you been in this line of business?
A. Since 1913.
Mr. Horton: Since when?
A. 1913.
Q. (By Mr. Taylor): Mr. Allen, did you ever have any business dealings with the Andalusia Packing Company?
A. Yes sir.
Q. Will you state when that commenced?
450 A. In September, 1916, I think it was.
Q. What was the nature of those business transactions?
A. We were acting as broker for them on this market.
Q. When did you commence acting as broker?
A. In September, 1916.
Q. Do you know the exact date?
A. September 11th, I think was the date, approximately the right date; I dont know the exact date, either.
Q. Now, what kind of goods was the Andalusia Packing Company putting out at that time?
A. General line of packing house products.
Q. That included what?
A. That included fresh meat, products, pork and beef, cured products, cured pork products.
Q. Fresh meat?
A. Fresh pork products.
Q. Fresh meat, both pork and beef?
A. Yes.
Q. How long a time did you continue to act as broker for the Andalusia Packing Company?
A. Until September, 1917.

Q. Can you fix the time in September, 1917 when you
451 ceased acting as broker for the Andalusia Packing Company?

A. Well, we really sold some goods after that time, but it was the remainder of consigned stocks we had on hand; we closed the last out in December, 1917.

Q. Do you recollect when it was you received the last shipment from the Andalusia Packing Company?

A. No, I do not.

Q. Do you know the month?

A. I think it was in September, I am not positive of that.

Q. And about what time in September?

A. About the 20th, around the 20th.

Q. Now, can you state about the volume of business that you did for the Andalusia Packing Company during this period?

A. Well, we handled on an average of two cars per week, regularly, sometimes we would get three; we always got two or more.

Q. During all seasons of the year, do you mean, by that?

A. Yes sir.

Q. And on what basis did you handle this product?

A. It was five per cent commission on the fresh meats.

Q. Both pork and beef?

A. Yes, and three per cent on the cured meats, my recollection; I wont be positive on that.

452 Q. How about lard?

A. Three per cent, is my recollection on that.

Q. Now, will you please state for the record the arrangement under which you handled this; that is, was the product consigned to you, or were they shipped directly from the Andalusia house to the consumers? What was the arrangement? Please describe it.

A. When we first started in September, 1916, we would take orders for a carload, or as much as we could, up to twenty thousand pounds, and send those orders in to Andalusia to be shipped; they would get the orders out and ship them to us, consign them to us in Birmingham, and send invoices, and we would distribute them here. Beginning January 1st, they gave us open consignments; we carried the goods in stock and sold it ourselves, for their account, on their stationery, and collected for them. We did that practically all of the time.

Mr. Horton: Louder please, Mr. Allen, I cannot hear you.

A. And we would report to them daily, by sending them

a carbon copy of each invoice that was issued. These invoices were furnished by them, and we would also report daily the collections as we collected them. We would deposit the money in the Birmingham Trust & Savings Bank
453 here, and give them an itemized list of the collections, that is, the customers' name and the amount, together with a duplicate deposit slip, O.K.'d by the bank.

Q. And in whose account were these deposits made with the Birmingham Trust?

A. Andalusia Packing Company.

Q. And did this arrangement continue up to the time the Andalusia Packing Company ceased shipping meats to you?

A. Yes.

Q. How were your commissions paid?

A. Monthly.

Q. And have you a record of the commissions that you received from month to month during this period?

A. Yes.

Q. Have you that record with you?

A. Yes, I have it here.

Q. Can you state the amount of commissions you received, without referring to that record, or will that be necessary?

A. I would have to refer to the record.

Q. Now, referring to the record to refresh your mind, will you please state the amount of commissions you received from month to month, beginning with the first commission received, and when it was received, what period it was received for?

454 Mr. Horton: Just a minute, please, Mr. Allen. We object on the ground that it is incompetent and immaterial, not within the issues in this case; and further, that it throws no light upon any of the questions here at issue; there is no way in which these commissions can be checked by us to get at the volume, and if there was such a way, it would still be incompetent and immaterial.

Examiner Sadler: The objections will be noted.

A. September, 1916, $200.97; October, 1916, $486.28; November, 1916, $649.53; December, 1916, $825.08; January, 1917, $1295.32; February, 1917, $1591.12; March, 1917, $1294.09; April, 1917, $822.61; May, 1917, $811.43; June, 917, $864.67; July, 1917, $523.83; August, 1917, $703.61; September, 1917, $658.10; October, 1917, $291.01; November, 1917, $5.26; December, $45.31.

Q. That the last commission you received?

A. Yes.
Q. Now, take the—
A. (Interrupting): Do you want the total of that?
Q. Have you the total?
A. Yes.
Q. Will you please state it?
455 A. $11,068.23.
Q. Now, take the first payment, $200.97, September, 1916, what month's work did that represent?
A. September.
Q. Did that represent sales made in September, or goods received in September?
A. Sales made in September.
Q. Sales made in September; now, will that same statement hold good down to the end of the year?
A. Yes sir.
Mr. Horton: It is understood, is it, Mr. Examiner, that our objection goes to this entire line of testimony, that it is not necessary to repeat it each time?
Examiner Sadler: Yes, it will be understood.
Q. (By Mr. Taylor): Now, take the commission of January, 1917, $1295.32, did the change in arrangement that was made at that time make any difference in regard to what that commission was payable for?
A. It did not.
Q. Was there any time during this period when the commissions represented other than—earnings other than goods received by you from the Andalusia Packing Company in that month?
456 Mr. Horton: Read the question.
Mr. Taylor: My question was "received."
The Witness: You mean the question before this one?
Mr. Taylor: Please refer to that first question:
(Previous question and answer read)
Mr. Taylor: Well, we will change that to sold, change the word "received" to sold.
The Witness: Was there any different ararngements made, was the question?
Mr. Taylor: Read the question.
(Question read)
Mr. Taylor: Sold for instead of received from.
A. No.
Q. (By Mr. Taylor): Now, have you the records of the deposits that you made?
A. Yes sir.

Q. From time to time, that you referred to in your previous testimony?

A. Yes sir.

Q. You have with you here the bank book?

A. Yes sir.

Q. Is this the book which you have just handed to
457 me, Mr. Allen, the bank book of the Andalusia Packing Company, in which the deposits were made by you as stated?

A. Yes sir.

Q. And do all of these items of money entered in this book at the various times represent the amounts, the deposits made by you on the respective dates?

A. Yes sir.

Q. Shown, and this is a correct record of all the deposits made by you for the Andalusia Packing Company during the Period from September 11, 1916, to December 28, 1917?

A. Yes sir.

Mr. Horton: We object to counsel's question as leading.

Examiner Sadler: The objection will be noted.

Mr. Taylor: I now offer in evidence the account of the Andalusia Packing Company with the Birmingham Trust & Savings Company, the book just identified by the witness.

Mr. Horton: We object upon the ground that it is incompetent, immaterial, irrelevant, not within the issues in this case, and further, I would like to—first, before I state my objection, I would like to cross-examine the witness, please, on this book.

Mr. Taylor: You may, I have no objection.

458 Q. (By Mr. Horton): Were these deposits made by you personally?

A. No.

Mr. Horton: We further object to the offer of the book on the ground that it has not been properly identified.

Examiner Sadler: The objections will be noted, and the book will be received in evidence, and marked "Commission's Exhibit No. 110."

(The book was received in evidence, and marked "Commission's Exhibit No. 110")

Q. (By Mr. Taylor): Now, Mr. Allen, have you the total of the deposits shown on this bank book, Commission's Exhibit No. 110?

A. Yes sir.

Q. And what do those deposits aggregate?
A. $268,699.72.
Q. Now, have you a record of the aggregate of products received from the Andalusia Packing Company during this period which you were representing them as broker, the tonnage?
A. No, I have not.
Mr. Horton: Mr. Taylor, by products do you mean the meat food products that he received?
Mr. Taylor: Yes, all of the meat products.
459 A. We have got a partial record that will give you an idea of what it is, but not all of it.
Q. (By Mr. Taylor): What period does that partial record cover; is it complete for any given period of time?
A. It is complete as far as fresh meats are concerned, absolutely, from January 1st on.
Q. By fresh meats, just what do you include?
A. That is pork products, and beef and pork products, the fresh cuts.
Q. What does it show as to those products?
A. 682,733 pounds.
Mr. Horton: We object to that question and move to strike out the answer for the reason that it is incompetent, immaterial and irrelevant, not within the issues, and also because the record is not complete; that is, to throw any light on the case, it should be complete.
Examiner Sadler: The objection and the motion to strike will be noted.
Q. What was that amount again, please?
A. 682,733 pounds.
Q. Have you made a search for your records as to the other kinds of meat?
460 A. Yes sir.
Q. And with what results?
A. I could not find them.
Q. Now, what period of time was covered during the time during which you received this 682,733 pounds of fresh meats?
Mr. Horton: Just a minute, it is understood, is it, Mr. Examiner, that our objection goes to this entire line of testimony?
Examiner Sadler: Yes.
A. That was from January 1st, 1917, until we discontinued doing business with them.
Examiner Sadler: What are your initials, Mr. Allen?
A. E. P.

Examiner Sadler: And the address?

A. 2315 First Avenue.

Q. (By Mr. Taylor): Now, Mr. Allen, during the time you were representing the Andalusia Packing Company, did you yourself canvas the market here and make sales of produce?

A. Yes.

Q. Meat products, I mean?

A. Yes.

Q. The products of the Andalusia Packing Company?

461 A. Yes.

Q. Now, during that period of time did you yourself canvas the trade here?

A. Well, the whole time, every day.

Q. Do you know whether anybody else, aside from yourself, was selling the Andalusia meat products in this market, of Birmingham?

A. For what period?

Q. During the period from September 11th, 1916 that is the time when you started, up to the time when you stopped?

A. There was the latter part of the time, yes sir.

Q. Now, take the early part of the time, before anybody else—by the way, when was it that salesmen came into the market representing the Andalusia meat products, that is, selling them?

A. Why, it was in September, is my best recollection on that.

Q .September of 1917?

A. '17, yes.

Q. And who was it?

A. Swift & Company.

Q. Through the branch house here?

A. Branch house.

462 Q. Now, take the period prior to September, 1917, from September, 1916, down to September, 1917, do you know whether the representatives of Swift & Company were selling anything in this market?

A. Do not.

Q. Do you know whether they were working this market?

A. Yes.

Q. Were they?

A. They were working it, yes.

Q. Do you know what they were trying to sell in the market?

A. They were selling a general packing house line of products.

Q. Would that include all of the products which were produced by the Andalusia Packing Company?

A. Yes, and a great many more, I expect.

Q. Now, you went into meat markets from time to time, did you not?

A. Yes sir.

Q. Do the meats bear any marks indicating by whom they were sold, or from what packing house they come?

A. Yes, you can—when they come in the original package it does.

Q. Did you observe any meats there that were sold
463 by representatives of Smith & Company—Swift & Company?

A. Did I observe any of Swift's meats?

Q. Yes?

A. Yes.

Q. That is from September, 1916, down to September, 1917?

A. Yes.

Q. Were they the same character of meats that were produced by the Andalusia Packing Company, the same kinds of meats, the same sort?

A. Yes sir.

Q. Same sort of meats that you were selling?

A. Yes.

Q. As representative of the Andalusia Packing Company?

A. Yes sir.

Q. Now, take the time from September, 1917, right to the end of the time when you represented the Andalusia Packing Company, did you observe from time to time that the salesmen of Swift & Company were in the Birmingham market selling meats?

A. Yes sir.

Q. And what did you learn in regard to that, what kind of meats, what character were they?

A. Of the same character that they had been selling,
464 of the same kind, rather; as to the character, we found that they were selling the Andalusia Packing Company meats, goods packed in their boxes.

Q. And up to that time you had had sole representation and sale of the Andalusia Packing Company meats in this market?

A. Yes.

Q. And did you find that they were selling them to your customers?

A. Yes.

Mr. Horton: Now, we move to strike out the answer.

Mr. Taylor: Well, I will withdraw the answer, consent that the answer—I withdraw the question, and consent that the answer be stricken out.

Mr. Horton: Thank you.

Q. (By Mr. Taylor): Did you observe to whom salesmen of Swift & Company were selling Andalusia meat products?

A. Yes.

Q. Will you state generally who they were?

A. Why, they sold them to practically all of our customers; they worked the same class of trade.

Mr. Horton: I move to strike out the answer, if you please.

Mr. Taylor: I can see no reason why that answer 465 should be stricken out.

Mr. Horton: The question of ownership or title to any customer has not been shown before.

Mr. Taylor: We will develop from the witness exactly what he means by "our customers."

The Witness: Customers to whom we sold.

Examiner Sadler: The motion to strike will be noted.

Q. (By Mr. Taylor): Will you please state just what you mean by "our customers"?

A. Customers to whom we sold goods.

Q. By "we' who do you mean?

A. E. P. Allen & Company, as brokers for the Andalusia Packing Company.

Q. What is your recollection as to the month of October, 1917, with regard to the amount of sales you were able to make—no, I withdraw that question.

Mr. Horton: I am glad of it, I was going to object to it.

Q. (By Mr. Taylor): Now, Mr. Allen, have you ever been down to the office of the Andalusia Packing Company?

A. Yes sir.

Q. When did you first go there?

A. In July, 1916, was my first trip there, the latter part of July. I don't remember the date.

466 Q. Why did you go out there?

A. Why?

Q. Yes?

A. To see them with reference to representing them in the Birmingham market.

Q. Whom did you see there?
A. Mr. Henderson and Mr. Conner.
Q. Did you know Mr. Henderson's full name?
A. T. E. Henderson is his initials.
Q. What was his relation to the Andalusia Packing Company?
A. He was president of it.
Q. And do you know Mr. Conner's full name?
A. No, I do not.
Q. What was Mr. Conner's relation to it?
A. He was general manager.
Q. Now, did you go there, afterward, later?
A. Yes sir.
Q. When?
A. I dont remember the months; I made about five trips there altogether, during the time I was representing them.
Q. And do you recall the occasion of your second trip there?

A. No, I do not.

467 Q. And about when it was, as near as you can recall, if you are able to fix the date at all?
A. Well, it was about three months after I had gone there, or begun selling goods for them, is my best recollection on that.
Q. That would bring it to about the last of the year, last of the year 1916, or the first of the year 1917, would that be about your recollection?
A. Right about that time, I think, probably; it was the early part of January, now, since you have mentioned that, the latter part of December or the early part of January.
Q. Now, when did you go down the next time, or go to Andalusia, let the question read?
A. Well, I dont remember that.
Q. Do you recall about the time you went there on the fourth trip?
A. It was either the fourth or fifth, that is when the next time was; the only thing that is clear in my mind is about the last trip that I made there.
Q. Now, when was that last trip made?
A. That was in September, I think.

Q. Do you recall whom you saw on the last trip?

468 A. I saw Mr. Henderson and Mr. Conner and the new man that Swift & Company had just put in there, I dont remember his name.

Mr. Horton: I object to that, and move it be stricken

out, on the ground that the witness has not shown that he is qualified to speak about whom Swift & Company put in there.

Examiner Sadler: The objection will be noted.

Mr. Horton: I also move to strike it out on the ground that it is not responsive to the question; hearsay; incompetent and immaterial, not within the issues.

Examiner Sadler: The motion will be noted.

Q. (By Mr. Taylor): Now, did you have any conversation with this new man whom you say Swift & Company had put in there?

A. Yes sir.

Q. Did he mention Swift & Company's name to you?

A. Yes.

Mr. Horton: I object to this entire line of testimony Mr. Examiner.

Examiner Sadler: The objection will be noted.

Mr. Horton: It is understood, is it, that the objection continues?

Examiner Sadler: Yes.

469 Q. Did he state whom he represented?

A. Yes.

Q. What did he stated in that regard?

A. That he was sent down to take charge of the office for Swift & Company, sent down from Chicago to take charge of the office for Swift & Company.

Q. Now, going back to your second visit there, and your third, do you recall the purpose of your going to Andalusia?

A. On this last trip?

Q. No, not the last trip, but the preceding trips, after the first trip.

A. Oh, to get in a little closer touch with them, to go over different matters with reference to accounts, and how they should be handled, and with reference to stationery, our accounting systems and different things like that.

Q. At that time did you go over any of your accounts?

A. Yes sir.

Q. And what were they, accounts with you as broker?

A. Yes.

Q. Were any accounts at that time kept with your customers?

A. Yes.

Q. That is in addition to the account that was kept 470 with you direct?

A. Well, they had no—you mean direct from Andalusia with the customers?

Q. Yes?

A. I dont know, there was not, so far as I know; I dont know what they kept, of course, but there was not, so far as I know; they kept a copy of our work in their ledgers, the same as we did on ours.

Q. I show you a book marked "Exhibit A-17 for identification" account of E. P. Allen & Company, Birmingham, Alabama; do you recall ever seeing this book before? This account?

A. I dont that particular account, no, that one was not in question so much as it was the general accounts that we were selling.

Q. You dont recall whether you saw that account or not?

A. No.

Q. I now show you book marked "A-19 for identification," account of E. P. Allen & Company, Birmingham, Alabama, consignment report of sales from E. P. Allen & Company.

Mr. Horton: We objection to the production and examination of this exhibit and the other exhibits mentioned, upon the ground previously stated, that it was
471 produced in response to a void subpoena.

Examiner Sadler: The objection will be noted.

Mr. Taylor: I object, Mr. Examiner, to the reference to these subpoenas as void subpoenas. The position of counsel for respondent here is absolutely absurd. If there was any merit in his contention, it would mean that a proceeding of this sort could not be tried within five times the period that we are required to try them and dispose of them.

Examiner Sadler: The objection will be noted.

Q. (By Mr. Taylor): Do you recall ever seeing the account in the book referred to?

A. Yes.

Q. And did you examine this account at the time?

A. Yes.

Q. Now, can you explain what this record shows, this account?

A. That is the record, consignment record, showing the sale, shipments and sales against the shipments.

Mr. Horton: I object to the question and move to strike out the answer on the ground that the witness has not shown that he has any particular knowledge of these accounts, that he certainly could not have any personal recollection of them, after all these years. Also on the
472 further ground that it is incompetent and immaterial.

Examiner Sadler: Objection will be noted, and the motion to strike will be noted.

Mr. Taylor: Mr. Examiner, the witness has before him the account at the present time; he is not testifying from his recollection; but testifying from the accounts which are now before him.

Q. Mr. Allen, at the times that you went to Birmingham —to Andalusia, to check over your account, did you and the bookkeeper who kept this account refer to it together?

A. Yes sir.

Q. Examine it together?

A. Yes sir.

Q. Was the account discussed at that time by you and the bookkeeper?

A. Yes.

Q. And did you understand the account?

Mr. Horton: I object to the question, incompetent and immaterial.

Examiner Sadler: The objection will be noted.

A. Yes.

473 Mr. Horton: I further object to counsel leading the witness.

Q. (By Mr. Taylor): By account I mean the record, before the witness, showing the consignments, or consignment report. Now, Mr. Allen, will you please explain the way in which this consignment report or record is kept, what these different items and columns here mean?

A. When the shipment is first made to us, this first sheet here is a copy of the invoice that comes to us.

Q. And this first sheet is a short sheet, less than half of the length of the other sheet?

A. Yes.

Q. In the book?

A. Yes.

Q. Can this page that you now have before you be described by any identifying marks?

A. By the lot number, yes.

Also the car number—doesn't the car number appear on here?

A. No.

Q. And this page that you have before you has the indication "car L. & N. No. 56148" upon it; will that identify the particular page from any other page in this book?

A. Yes, that would, together with the date. Of course,

474 this car number could be used over again, but with the date there it would identify it.

Q. And the date is March 15, 1917?
A. Yes.
Q. I now call your attention to the short page bearing the date March 15, 1917, and car L. & N. No. 56148; will you please state what this page, or rather the entries on this page show?

Mr. Horton: Now, just a minute, please, Mr. Allen, and I will object to this specific question, and to continuing examining along this line, particularly on the ground that it is not a proper record by which the witness can refresh his recollection; these entries were not made by him, the books were not kept by him, and it is entirely improper to have the witness read the records into the record.

Examiner Sadler: The objection will be noted.
Mr. Horton: May it please be understood, Mr. Examiner, that the objection continues to the entire line of testimony?
Examiner Sadler: Yes.
A. This represents shipments made to us; in this case, the shipment that was made to us on March 15, 1917, consignment lot No. 51.
475 Q. (By Mr. Taylor): And that represents different kind of meats that were contained in that shipment, does it?
A. Yes.
Q. This first column is headed by the word "commodity," what appears in that column, beneath the word "commodity?"
A. A list of the different products in the car.
Q. The next column is headed "No. Pieces."
A. That is the number of pieces of the product.
Q. Of the product itself?
A. In the car.
Q. On the same line immediate opposite?
A. Yes sir.
Q. And next we find the general heading "consignment," and under that general heading "consignment" we find in one column "weight," in another column "price," in another column "Com." and in another column "amount." Taking those sub-headings under the general heading "consignment," what do we find in the column under the word "weight?"
A. The weight of the product.
Q. Of what product?
A. Contained in the car.

Q. You mean the product which appears on the same
476 line, opposite?

A. Opposite, yes.

Q. And take the word "price," the entries under the subheading "price?"

A. That was the price fixed on the product, supposed to be the market for that day.

Q. Did that price bear any relation to the price at which you were expected to sell the particular product?

A. No, did not.

Q. What was that intended for, do you know?

A. Merely as a consignment record, to complete their records.

Q. Now, under the column "com."

Mr. Horton: I object to that last answer, and move to strike it out, on the ground it is an argument of the witness.

Mr. Taylor: I dont think it is.

Examiner Sadler: The objection will be noted, and the motion to strike will be noted.

Q. (By Mr. Taylor): "Com.", what does that mean?

A. That was for the amount of [illegible]mmission earned on the particular product opposite tha[illegible] same commodity line.

Q. The next subhead, "amou[illegible]"

A. Was the amount in dol[illegible]rs and cents of the product opposite the line.

477 Q. On the same line?

A. On the same line.

Q. Now, we find a further general heading "Final Returns", and beneath that the subheadings, one column "No. Pieces", second column "weight", and the third column "amount". Will you state what was intended to be inserted in those columns, and as a matter of practice was inserted?

A. Under the "No.Pieces" the total amount of pieces reported as having been sold out of that particular consignment, opposite on that line.

Q. Of the article on the same line?

A. On the same line. Under the head "weight" was the weight of the product, and under the heading "amount" was the amount in dollars and cents.

Q. And when were those entries under "Final Returns" placed in the record, if you know?

A. No, I could not tell you when they were placed there; they were placed there when the lots were closed, or when

they got our final closing out, one or the other, I dont know which.

Q. After receiving a report from you as to what had been done with the articles described on the particular line?

A. Yes.

478 Q. Now, in what way did they get information as to what you had done with these particular articles?

A. That they consigned, you mean?

Q. Yes?

A. We would send them carbon copies of the invoices every night for the sales made during that day.

Q. Sales made out of that particular lot?

A. Sales made out that particular lot, or we might have four or five lots open at the same time.

Q. Now, I observe that the page which you have just been describing bears the words "Lot No. 51"; the long page immediately following also bears the words "Lot No. 51"; also the head "Report of Sales from E .P. Allen & Company", followed by the words "Lot No. 51", which I have just read; will you please explain in what way this page was made up, and from what it was made up, what information?

A. That was made up from the information they got from our carbon copies of sales tickets, issued to the customers we sold; those sales tickets are numbered consecutively, and show the consignment number, the pieces, the weight, the price and the amount sold at, sold for.

Q. It is the report of sales sheet, you would describe this as the report of sales sheet, would you?

479 A. This sheet here?

Q. Yes, the one that you have been describing, the last?

A. The term that I have always been accustomed to using is account of sales.

Q. Account of sales sheet?

A. Account of sales sheet.

Q. Now, would it follow that where the account of sales sheet bears a given number, and the lot which corresponds with the number of the lot appearing on the—what do you call this—invoice sheet, the short page,—that it represents the sale of the same goods described in the account sheet, invoice sheet?

A. Invoice sheet, yes.

Q. Now, how many pages of the account sales sheet appear in this book to show the disposition of the goods shown in the invoice sheet, under Lot 51?

A. Four; I would say three and a part of the fourth one.

Q. And that shows in detail what was done with all of the meat shipped to you as shown in the invoice sheet No. 51, Lot No. 51?

A. Yes.

Q. Now, do you keep a record similar to the record 480 before you, which you have just been describing?

A. Yes. You mean do we or did we?

Q. Did you at that time?

A. Did we? Yes.

Q. And did you from time to time compare your records with the records kept by the Andalusia Packing Company?

A. Not personally, in every case, but we sent a carbon copy of our record; we kept it in duplicate form, and sent them a carbon copy of it, and if there is any differences they would always take it up with us.

Q. Did they occasionally take up with you the matter of some differences?

A. Yes.

Q. And whenever that happened, were the differences adjusted one way or another?

A. Yes sir.

Q. An understanding arrived at?

A. Yes.

Q. Did you have an occasion to look over this book which is now before you and check it over with the bookkeeper?

A. Yes.

Q. And did it always correspond with your records, 481 whenever you did?

A. No, did not always, sometimes would be mistakes in posting on their part or my part.

Q. Now, when that situation arose, what would happen?

A. We would make adjustments, get together on it.

Q. And arrive at a conclusion?

A. Yes.

Q. And what was done with regard to making them correspond, if anything?

A. Sometimes we would be short on one consignment, and over on another, we would make adjustments by transferring from one to the other.

Q. And what was the result, as they appear on the records of the Andalusia Packing Company, and corresponding records kept by yourself, after this adjustment?

A. They would always agree.

Q. Now, Mr. Allen, referring to the last trip which you took to Andalusia, do you recall the purpose for which you went?

A. Yes sir.

Q. And the circumstances leading to your going?

A. Yes.

482 Q. Will you state what it was?

A. We had had orders in with the Andalusia Packing Company for some products for a couple of weeks, and shipment had not been made; we had been calling them up—

Q. (interrupting) When was this, as near as you can recollect?

A. This was in September, as best I can remember, early part of September.

Q. 1917?

A. 1917. And we had been after them about getting the shipments out, and could not get any information, so I jumped on the train and went down to see them, to see what the trouble was.

Q. Now, I believe you have testified that at that time you saw Mr. Henderson, Mr. Connor, and some man who told you he was there representing Swift & Company?

A. Yes sir.

Q. Now, what was said at the time of your call there, with any of these three men?

A. Mr. Henderson told me first that the Andalusia Packing Company had been sold out to Swift & Company, and that he had been informed by Swift & Company's—by Swift & Company that there would be no change as far as

483 brokers were concerned, for the present, Then I went down to see Mr.—

Mr. Horton: Just a minute please. Move to strike out—I object to the last question, and move to strike out the answer upon the ground that it is hearsay; the witness should not be allowed to tell what Mr. Henderson told him; also upon the ground that it is incompetent and immaterial, not within the issues; and that the man that he has been talking about, Swift & Company, has not been properly identified; that sort of evidence is also hearsay.

Mr. Taylor: First let me ask the witness, before you rule, Mr. Examiner, let me ask the witness what was Mr. Henderson's connection with the Andalusia Packing Company at the time of this conversation to which he has just testified.

A. Well, I understood, I dont know, but I understood that he had no further connection with them.

Mr Horton: We object to what the witness understood. I dont think it makes any difference what he was or what his business was; it is still hearsay.

Examiner Sadler: The objections will be noted, and the motion to strike will be noted.

Q. (By Mr Taylor) Now, was that in September that you had the talk that you last referred to with Mr. Hen-
484 derson, in which he told you that Swift & Company had bought the company?

A. That is my best recollection about it, it was in September, early part.

Mr. Horton: I move to strike out the answer, and object to the question, upon the ground that it is merely an argument of counsel that such a conversation took place or such conversation is competent evidence.

Examiner Sadler: The objection will be noted, and the motion to strike will be noted.

Q. (By Mr Taylor) Who else was present? Who was present, if anybody, besides yourself and Mr. Henderson at the time of this conversation?

A. No one at that time.

Q. Now, did you have any further conversation with Mr. Henderson, and if so, when?

Mr. Horton: I object on the ground that it is immaterial, not competent evidence.

Examiner Sadler: The objection will be noted.

A. Yes, at that same time, I talked further with him later on in the afternoon, I came back to see him.

Q. (By Mr. Taylor): Will you please state what was said?

485 Mr. Horton: I object to that, your Honor. It is clearly hearsay.

Examiner Sadler: The objection will be noted.

A. He told me to go down to the plant and meet the new manager, and that Mr. Conner was going to be there for a while and that he personally hoped that they would continue with us, that we had given them entire satisfaction in handling the goods here, and that he thought that we were entitled to it, to continue as agents, under the arrangement that we had had.

Q. And can you please fix as nearly as you can the date in September when this conversation with Mr. Henderson which you have just recited took place?

A. Well, it has been so long I dont want to say the date, but I think it was before the 15th of the month.

Mr. Horton: I will ask you to speak a little louder, please.
A. Before the 15th of the month.
Q. (By Mr. Taylor) You think it was before the 15th?
A. Yes.
Q. Now, did you go down to the plant?
A. Yes sir.
Q. Later, as Mr. Henderson advised?
A. Yes sir.
486 Q. Whom did you meet there?
A. Mr. Conner and this new manager.
Q. Can you recall his name?
A. No, I cannot.
Q. Was it Colt?
A. It dont seem to me like it was.
Q. Or Rogers?
A. Yes, it was Rogers; Rogers was the name—let me see—it was either Rogers there, or Rogers came to see me after I had been there, I dont remember which it was; I wont make a positive statement on that. There was two different men on two different occasions, Rogers had not come to Andalusia at that time, I dont believe.
Mr. Horton: The substance of it is you dont remember which or who it was?
Q. (By Mr. Taylor): You dont remember which it was at this particular time?
A. No.
Q. Do you remember meeting Mr. Rogers?
A. Yes sir.
Q. But it is your recollection that that was at a later period?
487 A. I am not positive about that, I dont say when it was, at this time, or a little later on.
Q. But you remember meeting Mr. Rogers at some time, whether at Andalusia—
A. (Interrupting) No, not at Andalusia — now, wait — I will qualify that statement now, because I said I didnt remember whether I met him on this trip; that was my last trip; I remember that I met Mr. Rogers; it might not have been on that trip.
Q. And if it was not in Andalusia, where was it?
A. It was in Birmingham at my office.
Q. Now, what was Mr. Conner doing at the time you went to the plant?
A. Why, I dont know what title he held at that time; he

was looking after shipments, and general supervision of the plant, so far as I could see, as he had always done.

Q. Apparently doing the same thing that you had seen him doing on previous visits?

A. Yes.

Q. And who else was present at this interview, if anybody? Besides Mr. Conner and the man who said that he was there for Swift & Company?

488 A. Well, the bookkeepers and stenographers and so forth were in the office, but they were not—just a small office, you know; they were all in there.

Q. Did Mr. Henderson go down with you?

A. No.

Q. Now, was—did you have a conversation there with either Mr. Conner or with the man who said that he was from Swift & Company?

A. Yes, both.

Q. With both. These conversations were had in the presence of each of these men?

A. Yes.

Q. Now, will you please state what was said at those conversations?

Mr. Horton: We object on the ground it is hearsay. Let me ask a question, please:

Q. (By Mr. Horton) This is still the Andalusia Packing Company?

A. So far as I knew.

Q. And still had the sign out, "Andalusia Packing Company"?

A. Yes sir.

Q. Their letterheads and billheads were still Anda-
489 lusia Packing Company?

A. Yes sir.

Q. And to all intents and appearances it was still the Andalusia Packing Company, an Alabama corporation, that was running the plant?

A. Yes.

Mr. Horton: I renew my objection upon the ground that any statement is ex parte and hearsay.

Examiner Sadler: The objection will be noted.

Q. (By Mr. Taylor) Now, will you proceed with your answer?

A. Why, I asked Mr. Conner, in this other gentleman's presence, why they were not shipping my orders, why they

were not notifying me what they were going to do or something; they said the reason they were not shipping was that they didnt have the goods to ship; and I asked them then whether or not there was going to be any change in the arrangement about selling goods in Birmingham. They said as far as they knew that there would not be; that they had not had definite instructions, but they knew for at least a few months that there would not be; that they did not care to sell the product through their own regular branch house in Birmingham, because they saw what a volume of business we had around there, and they wanted us to keep right
490 ahead and go on with it. That was about all there was to it, except that he promised that day to get me out a car the following day.

Q. And then you came back to Birmingham?

A. Yes.

Q. Did you receive a car on the following day?

A. I received about ten cattle and two thousand pounds of meat; less than a fourth of a car.

Q. And did you receive further shipments?

A. No. Well, I did from Georgia, from the Moultrie Packing Company, a shipment of lard, to take care of some contracts we had on some lard.

Q. Did you receive any further shipments at all from the Andalusia Packing Company?

A. I did not.

Q. Did you have any further conversation with the company regarding shipments?

A. I called them up each day or two, and they told me each day that they didnt have anything to ship, could not ship it.

Q. Now, you spoke about seeing Mr. Rogers, did you have any conversation with Mr. Rogers when you saw him?

491 Yes sir.

Q. What was that, what was said in that conversation?

A. Mr. Rogers told me that there absolutely would not be any change for several months at least, in the Birmingham end of the business, that they were getting a good bargain, and he thought it would be very foolish to turn that business over to the branch house, when it could be so easily worked as extra volume.

Q. And when was that, as near as you can determine?

A. That was in September.

Q. What time in September, do you recall?
A. It was after the 15th, is my recollection.
Mr. Horton: A little louder, please.
A. After the 15th.
Q. Do you know as a matter of fact whether the Andalusia Packing Company were, or whether they were not sending goods to the Birmingham branch house of Swift & Company?
A. Did I know whether they were.
Q. Did you know at that time whether they were or were not?
A. That is which time?
Q. At the time of this conversation with Mr. Rogers?
Mr. Horton: We object; it is not material, anyway.
492 Examiner Sadler: The objection will be noted.
Q. (By Mr. Taylor) You did know?
A. Yes.
Q. Were they at that time?
A. Yes.
Q. Did you call Mr. Rogers' attention to the fact that you knew that they were shipping, that the Andalusia Packing Company was shipping goods to the Swift branch house in Birmingham?
A. That there had been shipments, yes.
Q. You did call Mr. Rogers' attention to that?
A. Yes.
Q. What did he say?
A. Well, I dont remember just what was said on that; it seems to me that he said that he would look into it, and get it straightened out, so there would not be any conflict, that is my best recollection on that.
Q. Now, did you notice any difference in getting shipments from the Andalusia Packing Company after this conversation with Mr. Rogers?
A. We did not get any more.
Q. Did Swift continue to sell the meat products of the Andalusia plant through the Birmingham branch house after this?
493 A. Yes.
Q. And you know if they have continued to sell from that time on?
A. Except what the salesmen say, that it is Andalusia products; I hear that frequently.
Mr. Horton: I object to that, and move to strike out the answer on the ground that it is hearsay.

Examiner Sadler: The objection will be noted, and the motion to strike will be noted.

Q. (By Mr. Taylor) Whose salesmen do you refer to?

A. Swift & Company salesmen.

Mr. Horton: I object to that on the further ground that it is hearsay.

Examiner Sadler: The objection will be noted.

Q. (By Mr. Taylor): Did you employ salesmen at the time you had the brokerage account of the Andalusia Packing Company?

A. Yes.

Q. What territory did they cover?

A. Birmingham and surrounding territory.

Q. And can you state who those salesmen were?

A. Yes. Mr. George D. Bauer.

Mr. Horton: Pardon me, how was that?

494 A. George D. Bauer, B-a-u-e-r; and A. T. Baugh, B-a-u-g-h.

Q. (By Mr. Taylor): What was the name of that last one?

A. A. T. Baugh, B-a-u-g-h; that is all I had at that time.

Q. And did you retain them after the Andalusia Packing Company ceased shipping goods to you?

A. Yes sir.

Q. Are they in your employ now?

A. One of them is.

Q. Which one?

A. Mr. Bauer, B-a-u-e-r.

Q. Do you know whether the Moultrie Packing Company was represented in this district, Birmingham?

A. Yes.

Q. By whom?

A. Mr. E. N. Wood.

Q. Do you know in what way he represented the Moultrie Packing Company?

A. As broker.

Mr. Taylor: You can cross-examine, Mr. Horton.

Cross-Examination by Mr. Horton.

Q. Did you have a contract with the Andalusia Pack-

495 ing Company, Mr. Allen?

A. Only a verbal contract.

Q. Only a verbal contract?

A. Yes sir.

Q. And there was no definite time specified in there?
A. No.
Q. That contract was cancelled, was it?
A. Never was cancelled, no.
Q. It was discontinued?
A. It was discontinued.
Q. Amounted to a cancellation?
A. Yes sir.
Q. I presume that the Moultrie Packing Company were entirely within their rights—I mean the Andalusia Packing Company were entirely within there rights in cancelling it?
A. I should not think so, under the circumstances, no.
Q. But you agree that opinions might differ on that proposition?
A. Oh, yes.
Q. If you have a man hired, and you have no contract for a definite period, you reserve the right to discontinue the employment at any time, do you not?
496 A. By giving him some reasonable notice.
Q. By giving him some reasonable notice. Simply amounts to a question of notice, then, in its broadest interpretation?
A. Yes.
Q. Now, I presume there was some competition in Birmingham, as there is in other cities, in the meat business?
A. Oh, yes.
Q. Competition?
A. Yes.
Q. Other people selling meat here?
A. Yes.
Q. Who were some of your competitors?
A. Swift & Company, Morris, Armour, Cudahy, St. Louis Independent Packing Company, Roth Packing Company.
Mr. Taylor: Mr. Examiner, I object to going into this, other than Swift & Company; it is outside of the direct examination.
A. I could name you fifty of them.
Q. (By Mr. Horton): About fifty of them.
A. Yes.
Mr. Taylor: One minute, we have an exception here. Objection.
Examiner Sadler: The objection will be noted.
Q. (By Mr. Horton): St. Louis Packing Company;
497 you said the Independent Packing Company?
A. Yes.

Q. St. Louis Independent Packing Company?
A. Yes.
Q. One packing company?
A. Yes.
Q. Who else?
A. I named Swift, Armour, Cudahy, Morris, St. Louis, Roth Packing Company.
Q. Roth?
A. Yes, R-o-t-h.
Q. Where were they from?
A. Waterloo, Iowa, Kingan & Company; Oscar Mayer.
Q. From Chicago?
A. Yes. I dont remember off-hand the others.
Q. Now, Swift & Company have a branch house here, have they not?
A. Yes.
Q. Amour & Company have a branch house?
A. Yes.
Q. Cudahy & Company have a branch house?
A. Yes.
Q. Wilson & Company?
498 A. Yes.
Q. And their predecessors, Sulzberger & Son had a branch house prior to that time?
A. Yes.
Q. Hormell?
A. He was not here at that time.
Q. He is here now?
A. Yes.
Q. Was he represented at that time?
A. Yes.
Q. By whom?
A. Myself.
Q. Yourself?
A. Yes sir.
Q. You have had other accounts besides the account of the Andalusia Packing Company?
A. Yes.
Q. And the Evansville Packing Company?
A. They were not here at that time, I dont think.
Q. Not here at that time; they are here now?
A. Yes.
Q. A. Sander Packing Company?
499 A. They were here, I think, but not with a stock in town here.

Mr. Taylor: What is this period that is intended to be covered by this question, Mr. Horton?

Mr. Horton: We will take that up as soon as I get these names in. We will go back and cover the period.

Mr. Taylor: Well, I dont see how the witness can state who was in the market, who were his competitors, without knowing when he is talking about.

Q. (By Mr. Horton): Well, has A. Sander Packing Company got a branch house here now?

A. No.

Q. They are represented here, are they?

A. I dont know whether they are now or not.

Q. And the Inman & Company?

A. They were not here at the time.

Q. They are here now?

A. Yes.

Q. There are some local slaughterers here?

A. Yes.

Q. Who are they?

A. Birmingham Packing Company.

500 Q. And the Alabama Packing Company?

A. They were not here when we were doing business with the Andalusia Packing Company, they were building at that time.

Q. The Birmingham Packing Company; they have a killing plant?

A. Yes, they were building, but had not begun operating; whether they had finished the plant, I am not positive about that now.

Q. I understand. Now, they have a killing plant, and they also have a branch house, is that right?

A. No.

Q. The Birmingham Packing Company?

A. The Birmingham Packing Company? Yes.

Q. Swift, Armour, Morris, Cudahy, Wilson, were all here in 1916, and continuously from that time on, were they not?

A. I wont say that Wilson was here then, because I dont know when that change was made to Sulzberger.

Q. Either Wilson or their predecessors, Sulzberger?

A. Yes.

Q. Now, were the rest of these companies, the St. Louis Independent Packing Company, Rath Packing Company, Kingan & Company, Oscar Mayer, were they here in 1916, and continuously from that time on?

501 A. Did not all carry stocks here; they were doing business here.

Q. And each one of these concerns is quite a sizable concern, is it not?

A. Yes.

Q. They did as much business as you did, or more?

A. No, I dont think they did.

Q. Some of them did?

A. I dont think that either of those last that you mentioned; I dont mean the branch houses, of course.

Q. All the branch houses did?

A. All the branch houses did more business than I did.

Q. Was Allen & Duke here in 1916 or '17?

A. I think it was the firm of Allen & Duke at that time.

Q. Have they or their predecessors or successors been here continuously since that time?

A. Yes.

Q. Schaffer & James?

A. They were not here.

Mr. Taylor: Is it understood, Mr. Examiner, that my objection goes to all of these questions?

Examiner Sadler: Yes, that will be understood.

502 A. I dont know what year they went in here, but they were here in 1918, 1919, and 1920.

Q. Are they here now?

A. No.

Q. Cocke & Lynch, were they here in 1916 or 1917?

A. I didnt know it if they were; I understand it is a new firm that went in about a year ago. Mr. Cocke was here, but he was not selling packing house products at that time.

Q. Are there more or less people doing business here now than there was in 1917?

Mr. Taylor: I object to that.

Examiner Sadler: The objection will be noted.

A. I could not say; I have not figured it up; I imagine it is just about, competition is about as keen now as it was at that time.

Q. It was keen at that time?

A. Yes sir.

Q. And it is keen today?

A. Yes sir, very keen.

Q. It has been keen at all times while you have been in business, was it not?

A. I have been in Birmingham for about nineteen
503 years, and I have never seen a year yet that it was not.

Q. Now, what other accounts did you have besides

the Andalusia Packing Company, at the time you were representing them?

A. The Wilson Provision Company, and the Sinclair Sales Company, which is a subsidiary of the T. M. Sinclair Company.

Q. The Wilson provision Company have a plant at Peoria, Illinois, have they not?

A. Yes.

Q. The Sinclair has a plant at Omaha?

A. Cedar Rapids.

Q. Cedar Rapids?

A. Yes sir.

Q. Omaha too, or Council Bluffs?

A. Not that I know of.

Q. You had the Hormell account too?

A. No.

Q. Not at that time?

A. Never did have it.

Q. Never did have it?

A. No.

Q. I thought you told me you represented one of those packers a minute ago.

504 A. You thought I told you that?

Q. Yes.

A. You misunderstood that that; I never did represent Morrell at all.

Mr. Horton: The witness wishes to correct his statement in regard to the statement that he represented George A. Hormell & Company.

A. Oh, I represented them; I thought you said Morrell a minute ago; that is what mixed me up.

Q. Then at the time you represented the Andalusia packing Company, you were representing Hormell, Wilson Provision Company, and Sinclair?

A. I was carrying stocks for Wilson & Sinclair; I did not ever carry stock for Hormell.

Q. Well, did you sell their goods?

A. I sold an occasional car, yes sir.

Q. You took the orders here, and they would ship the goods?

A. Yes sir.

Q. What concerns are you representing now?

A. The Iowa Packing Company.

Q. Where are they?

A. Des Moines.

505 Q. Des Moines?

A. Des Moines. The Sinclair Sales Company, Cedar Rapids; that is all, except that I get quotations from about half a dozen packers, indirectly, on carload lots.

Mr. Horton: I think that is all.

Redirect Examination by Mr. Taylor.

Q. Now, Mr. Allen, Mr. Horton has brought out this matter of competition, will you please state who was selling here —or, first, will you state what you were selling in the way of fresh meats for the Andalusia Packing Company during the period from September 1916, down to July, 1917?

A. Pork products and beef.

Q. And can you state generally with relation to your total sales what relation the fresh pork products bore?

A. Why, it was a little better than fifty per cent of it.

Q. Now, who else in this market was selling fresh or frozen pork products?

A. No one except the branch houses of the Big Five.

Q. And by that do you mean southern pork or western pork, or both?

A. At that time there was not anything except west-

506 ern pork sold here.

Q. That is, by the branch houses of the Big Five?

A. Except that there was an occasional car of beef brought in here from Texas.

Q. For the present confine youreslf to fresh pork. All of the western pork was sold by the branch houses of the Big Five, would that be your answer?

A. Yes.

Q. And whom do you mean by the Big Five?

A. I mean Swift, Armour, Cudahy, Morris, & Wilson.

Q. Now, what was the character of the pork that you were selling for the Andalusia Packing Company?

A. That was—I didnt quite catch you, what—

Q. You referred to western pork being sold by the Big Five?

A. This was southern or Alabama pork.

Q. Was there any southern prok being sold here aside from that that you were selling?

A. Except that Mr. Wood occasionally brought in a little by express from Moultrie.

Q. Now, take the Moultrie product and your own product, that is, the fresh pork from Moultrie and the fresh pork from Andalusia that you were selling, could you state how

far that pork would—how that pork would compare in
507 volume with the pork sold by the Big Five, the fresh pork sold by the Big Five?

Mr. Horton: Just a minute, please. I object to that, on the ground that it is incompetent, that the witness has not qualified as an expert here, nor has he qualified or shown himself to be in position to give an intelligent answer upon that question.

Mr. Taylor: Counsel for the respondent seems to have forgotten the fact, when he was cross-examining him—I am only going into the matters that were brought out on cross-examination, developing them a little bit further.

Examiner Sadler: The objection will be noted.

Mr. Horton: Just let me ask a question or two, please:

Q. (By Mr. Horton): Did you have access to the records of any other packing house?

A. No.

Q. Did you visit their plants, other than occasionally?

A. I was around there almost daily, at most of the other plants, not all of them.

Q. Not all of them?

A. Not all of them, no.

Q. You would not have a chance to see what stocks they had on hand, when you were there, would you?

508 A. Except what I could observe, the floor.

Q. Except what you could observe on the floor?

A. Yes sir.

Q. Most of their fresh meat is carried in the cooler, is it not?

A. Yes sir.

Q. You would not get into that cooler, would you?

A. Frequently, yes sir.

Q. Would you go into that cooler every time you went there?

A. Oh, no.

Q. There would be many times that you would not go into there?

A. Yes.

Q. Now, you dont mean to say that you had been at the plant of Swift & Company every day, do you?

A. I was by there two or three times a day.

Q. Sometimes two or three times a day?

A. Sometimes four or five times a day.

Q. You dont mean to say that you were there every day, do you?

A. Well, I had to go—I didnt have to go by there, but I went by there in going to and from my meals, and go-
509 ing home from work.

Q. Well, you passed the plant?

A. Yes.

Q. You dont mean you were inside every day?

A. No, not every day, not two or three times every day.

Q. And the same thing would apply to the plant of Armour & Company. Did you pass that when you went to your meals, too?

A. No.

Q. How often would you go to Armour's plant?

A. Go by there every day.

Q. How often would you go into it?

A. I would go into it about two or three times a week, as a rule.

Q. Did you always get into the cooler when you went into it?

A. No.

Mr. Horton: I submit that the witness is not qualified to express an opinion upon the volume handled by anybody else but himself.

Mr. Taylor: I think, Mr. Examiner, that counsel for the respondent pretty well qualified him. I would like to ask one or two more questions right along the same line, before asking for the answer to the unanswered question.

510 Q. (By Mr. Taylor): Were you visiting the meat markets and places where meat was sold from time to time?

A. Yes sir.

Q. In Birmingham. Visited your customers frequently?

A. Yes sir.

Q. How much of your time was spent in canvassing the trade?

A. About five or six hours a day.

Q. Every day in the week?

A. Yes sir.

Q. When you called upon these customers, was it part of your business to ascertain what products they had on hand?

A. Yes sir.

Q. And know what they were in the market to buy?

A. Yes sir.

Q. Not only tell by looking over their meats and ascertaining what they had on hand, but tell the character of fresh

pork, whether it was western pork, or whether it was southern prok?

A. Yes sir.

Q. Now, then, as a result of your experience as a salesman, as a result of these visits from time to time, and from day to day during the number of hours that you have testified to, do you feel that you can state approximately
511 what proportion of the fresh pork sold in the city of Birmingham was southern pork and what was western pork?

Mr. Horton: I object on the ground that the evidence is entirely incompetent, further than that, the witness is not qualified himself to express an opinion upon that subject.

Examiner Sadler: The objections will be noted.

A. I dont know that I can, because there is—when you say the city of Birmingham, do you mean what is shipped out of Birmingham, or right down in town?

Q. (By Mr. Taylor): I mean the amount that is sold in the city of Birmingham by the retail markets?

A. Downtown section.

Q. Well, if you wish to qualify your answer, you may do so; answer as fully as you feel that your experience will enable you to do, and qualify it accordingly, if qualification is necessary.

Mr. Horton: I repeat my objection.

Examiner Sadler: The objection will be noted.

A. Well, I would say that we had fully twenty-five per cent of the business on fresh pork cuts in the downtown section of Birmingham; as for the outside section, I could not state, because I did not see it personally.

512 Q. (By Mr. Taylor): Now, when you say "we" just what do you mean?

A. E. P. Allen & Company, as brokers for the Andalusia Packing Company.

Q. Do you know who covered the outside section?

A. Of Birmingham?

Q. Of Birmingham, yes. Who canvassed the trade there?

A. No, I didnt have but one outside man, and he covered it; it took him two or three weeks to get over the territory; we did not do very much fresh meat business outside of Birmingham; very little.

Q. Who was that?

A. That was Baugh, A. T. Baugh.

Q. Now, when you say—when would you say that the pro-

portion you have just testified to briefly as approximately correct, during what period?

A. During the period from January, 1917, until, I would say, August, 1917.

Mr. Horton: I object to that and move to strike out the answer on the ground it is incompetent.

Examiner Sadler: The objection will be noted, and the motion to strike will be noted.

513 Q. (By Mr. Taylor): Now, Mr. Allen, Mr. Horton has asked you if competition was pretty sharp here in Birmingham; I will ask you if you found it pretty sharp between yourself and Swift & Company during the period you have just been testifying to, from September 1916 down to the end of July, 1917?

A. Yes sir.

Q. Now, take from September, 1917, on, was competition keen between the Andalushian Products, meat products, and Swift & Company, was E. P. Allen selling the Andalusia meat products?

A. You mean while Swift was selling the same products that I was selling?

Q. Well, take it after September, after September, 1917?

Mr. Horton: He has answered that question.

A. I dont know as I quite get that question, just what you mean; you say I sold them in September, sold Andalusia products?

Q. Take it after September?

A. Yes sir, I found it very keen, yes.

Q. What were you selling after September?

A. I was selling for the Bullock Company, Bullock Packing Company, Statesboro, Georgia.

Q. Was there any competition between Swift & Company and yourself in selling Andalusia products after September, 1917?

514 A. For about two months in there there was not any competition with Andalusia and me.

Q. Between you and Swift, in the sale of the same products?

A. Oh, yes, I didnt catch that question either, I got it just kind of mixed up. We both had the Andalusia products.

Q. And after that who sold the Andalusia products?

A. Swift.

Q. How much Andalusia products did you sell after September, 1917, can you state?

A. Why, we sold this two thousand pounds of pork and

the ten cattle, and the balance ot the lard that we had on hand, probably we sold a car of meats.

Q. That was all the material that you had received in September, wasnt it, or previously?

A. Yes, on the 15th day of September.

Q. Now, take January 1st, 1918, was there any competition between Swift & Company and anybody else in the selling of the Andalusia products?

A. Not that I have ever heard of here.

Q. Now, take the month of February, 1918, I will ask you the same question?

A. No.

515 Q. Competition was entirely eliminated?

A. Yes.

Mr. Taylor: That is all.

Recross Examination by Mr. Horton.

Q. You did not mean to say that competition was entirely eliminated, did you?

A. On the Andalusia product.

Q. You just say that the Andalusia product changed representatives here in Birmingham?

A. How is that?

Q. That you were no longer handling the account, that is what you mean to say?

Mr. Taylor: No, he means to say more than that.

A. If anyone else was selling it, so far as I know, here, I didnt here of it, if it was Andalusia products.

Q. Now, your answer about this twenty-five per cent of the fresh pork, the volume of the fresh pork business, is confined to a downtown section here, is it not; downtown section here in Birmingham?

A. Well, what we term in Birmingham as the old Birmingham limits, you might say, that would not take in Bessemer.

516 Q. In the center of the city?

A. Or some of these outside towns, you see; does take in Ensley, not Bessemer.

Q. Isnt it a fair statement to say that that product was moved to those people at a price, that it, they were buyers who looked for cheap meat?

A. No, I would not say so; I sold the very best class of trade in Birmingham.

Q. And by the best class of trade what do you mean?

A. I mean the butchers that carried the best grade of meats.

Q. This product that you were handling was known as soft pork, was it not?

A. No, it had not been termed soft pork at that time.

Q. Pardon me.

A. It had not been termed soft pork in Birmingham at that time.

Q. But as a matter of fact, it was soft pork, it was southern hogs?

A. Yes sir, it was southern hogs.

Q. It was soft?

A. Yes, some of it was; some of it was just as firm as western meats.

517 Q. Wasnt that soft pork sold at a differential under the price of the hard western pork?

A. Not when we were selling it.

Q. Do you mean to say you got the same price that anybody else got?

A. We got around the same price, and frequently—I have seen dozens and dozens and dozens of cases when we got better than the price that the big packers did.

Mr. Horton: I think that is all.

Mr. Taylor: That is all.

Examiner Sadler: The witness will be excused.

(Witness excused.

Mr. Taylor: Mr. Examiner, I would like to recall Mr. Allen again for a question.

Examiner Sadler: All right.

WITNESS E. P. ALLEN recalled.

Q. (By Mr. Taylor): Mr. Allen, I show you a book marked Exhibit A-17 for identification. Will you please look at that book there and state whether or not you ever saw it before?

A. Yes sir.

Q. Where did you see it before?

518 Mr. Horton: Mr. Examiner, is it understood that it is improper to go into matters that have not been gone into on direct examination. Are you holding to strict rules of evidence on that, or is it a matter within your discretion?

Examiner Sadler: I didnt catch that?

Mr. Horton: Are you following the strict rules of evidence in this case, that an objection would be proper when the matter was not brought out on direct examination, or is that a matter which is within your discretion?

Examner Sadler: It is a matter in the discretion of the examiner.

Mr. Taylor: Mr. Examiner, I would state in regard to the present examination that I would ask to have it considered as direct examination, and counsel for the respondent have the same rights in regard to cross-examination as though it were direct examination, rather than redirect.

Examiner Sadler: All right.

Q. (By Mr. Taylor): Can you state where and when you saw it before?

A. On my visits to Andalusia, I would go over the accounts with them, and you will find my little notations all the way through the book here, the ledger in my handwriting.

519 Q. You have before you what page, of what account?

A. Carmichael & Holcomb, of East Thomas, Alabama.

Q. And the notations made by you?

A. Terms—in going over these different accounts with the credit man at Andalusia, he asked me to put the customary terms we were selling them, other products for them, for the other houses we were representing at the time; so I went through the entire ledger, of all the open accounts at that time, and put the terms here that we were giving those same customers for the other accounts that we were selling. On this particular account we put "monthly for provisions and weekly for fresh meats." I put that on there myself.

Q. And the pencil marks there, "monthly for provisions and weekly for fresh meats"—

A. "Monthly for provisions and weekly for fresh meats."

Q. Were made by you in Andalusia?

A. Yes.

Q. Can you state the time that that was made?

A. I could not state the time, but it was on one of these visits there before the last visit; it was not the last visit at all.

Q. Before September, 1917?

520 A. Yes.

Q. And after July, 1916?

A. Yes sir. Here is an account over here, right here, that is not my notation there.

Q. In whose presence were those notations made, if anybody's?

A. The credit man, the man in charge of the accounts there.

Q. The credit man?

A. At Andalusia.

Q. At the Andalusia Packing Company?

A. Yes. That is my writing there.

Q. What was his name, Davis?

A. Yes, Davis. That is his name.

Q. W. A. Davis. What were these books presented to you as representing?

A. As representing the accounts that we had sold.

Q. Do you remember whether they were characterized in any way as ledgers, or anything else?

A. Ledgers, Birmingham ledger is the way it was characterized. I was going over it.

Q. The account that you now have before you, in which you identify the handwriting, made at that time, is the account of the Central Iron & Coal Company?

521 A. Yes sir, Kellerman, Alabama. I put on their monthly terms. Monthly, I mean thirty days—it dont mean thirty days, either—it means regular monthly terms; they pay around the fifteenth of the month, for the previous month's purchases. There is two accounts here—that notation there in pencil was put there because we had another account under the same head; I think you will find it went to Holt, Alabama; it is all one and the same concern, and the goods was paid for from one point here. That notation there was put on at the same time by Mr. Davis, at my suggestion. I remember it now, "payment about the 20th of the month."

Q. Who is Mr. Davis?

A. He was cashier of the—credit man of the Andalusia Packing Company, I dont know what his official title was, but he was the man in charge of the ledger.

Q. Do you know whether Mr. Davis kept these books or not?

A. I saw him working on them; whether he kept them all or not, I dont know.

Q. And you have now before you the account of—

A. J. G. Dickinson & Company. I put "terms monthly on provisions and weekly on fresh meats."

Q. Are you acquainted with these customers personally?

522 A. Well, this man here I am, yes. I will have to go back and see these others to tell. I am not with this

man, Central Iron & Coal, I dont know personally; he is down sixty-five miles from here. These people I was personally acquainted with, Carmichael & Holcomb.

Q. Did you sell all these people?

A. Yes sir.

Q. And you were selling to them at that time, selling Andalusia products?

A. I did.

Q. And other products?

A. Yes. Here is another account I put monthly terms on, S. J. Downey.

Q. Did these accounts represent the Andalusia meat products which you were selling?

A. Yes sir.

Q. The parties whose names you identify?

A. Yes. M. Domit and Sons; that is spelled wrong here; they have it here D-o-m-m-i-t-t. I put terms monthly on provisions, and weekly on fresh meats. J. E. Davis, I put terms monthly on provisions, weekly on fresh meats. C. E. Davis,

I put terms monthly on provisions and weekly on fresh
523 meats. That is not my handwriting there; neither is that. W. B. Emond, I put terms monthly on provisions, weekly on fresh meats. Eureka Coal Company, I put terms on there of monthly; this is not in my handwriting, Earl Brothers, I put thirty day terms on there.

Q. That was in your handwriting, was it?

A. Yes sir, that was my handwriting. Empire Coal Company, I put monthly terms on that. Evansville Packing Company, weekly terms. A. Goldberg, I put thirty days on provisions, monthly, weekly on fresh meat.

Q. What does E. P. A., Birmingham, Alabama, mean?

A. I dont know what he puts that on for; I have not seen that on any other one; it might be that I guaranteed that account.

Q. Well, you dont know what that is?

A. No, I am not sure about that.

Q. Are those your initials, E. P. A., Mr. Allen?

A. Yes, that is my initials.

Q. But you did not write them?

A. I did not write them, no. I put terms on the Gulf State Steel Company of monthly, on that account. I didnt put this here. I put weekly terms on Grimes Brothers account. I put weekly terms on Griffin Brothers.

524 Q. Now, Mr. Allen, glance through the book shown, and see if you observe about the same proportion of

marks made by you, which you recognize, on the additional accounts?

A. Without going further?

Q. Without mentioning in detail as you go?

A. Yes sir.

Q. Do you find they run about the same?

A. About the same way all the way through, yes sir.

Q. Do you recognize that was the Birmingham ledger, kept by the Andalusia Packing Company?

A. Yes.

Mr. Taylor: That is all.

Mr. Horton: That is all.

Examiner Sadler: That is all, gentlemen. We will adjourn until 9:30 in the morning.

(Whereupon at 4:35 P. M., March 9, 1921, an adjournment was taken until 9:30 o'clock, A. M. of the following day, March 10, 1921.)

525 Birmingham, Alabama, March 10, 1921.
9:30 o'clock, A. M.

Met pursuant to adjournment.

Examiner Sadler: The hearing will come to order.

GEORGE D. BAUER called as a witness, having been first duly sworn, testified as follows:

Direct Examination by Mr. Taylor.

Q. Your name, please?

A. George D. Bauer.

Q. And your address, please?

A. 2315 First Avenue.

Q. Birmingham?

A. Yes sir.

Q. What is your business?

A. Packing house business.

Q. What branch of the work of the packing house business are you engaged in?

A. Fresh meats and provisions.

Q. What do you do?

A. I have charge of the fresh meats of E. P. Allen & Company.

526 Q. You are employed by E. P. Allen & Company?
A. Yes.
Q. And have charge of the fresh meats. What do you do, what is the nature of your duties?
A. Jurisdiction of the sales department.
Q. Do you act as salesman yourself?
A. Yes sir.
Q. What territory do you cover?
A. Birmingham and vicinity, as far as Tuscaloosa, up as far as Gadsden at the present time.
Q. How long have you been with E. P. Allen & Company?
A. Four and a half years.
Q. When was it you went with them, as near as you can fix the date?
A. November 10th, 1916.
Q. At that time was E. P. Allen the broker in Birmingham for the Andalusia Packing Company?
A. Yes sir.
Q. And at that time did you have anything to do with the selling of the meat products of the Andalusia Packing Company?
A. Yes sir, I did.
Q. Where did your territory—what was your terri-
527 tory at that time?
A. Birmingham and the suburbs.
Q. And did you personally canvass the market at that time?
A. Yes sir.
Q. And sold Andalusia Packing Company meat products?
A. Yes sir.
Q. Now, take the first six months of that period, or say, down to the end of July, 1917, as you were going about from time to time selling products, meat products of the Andalusia Packing Company—

Mr. Horton: I object to counsel leading the witness. He has been leading him all the way through, and while I submitted to it during the preliminary part of the interrogation, I think it would be well to let the witness do some of the talking.

Mr. Taylor: I submit that I am still on the preliminary part of this examination. I will very shortly arrive at the part where I shall give the witness an opportunity to talk.

Examiner Sadler: The objections will be noted.

Q. (By Mr. Taylor): Read that as far as I got.

(Question read).

Q. Did you occasionally meet or see the salesmen of Swift & Company?

528 A. Occasionally.

Q. And what were they doing?

A. Trying to sell goods for Swift & Company.

Q. What kind of goods?

A. Why, all their products, fresh meats and provisions.

Q. What kind of goods were you selling of the Andalusia Packing Company products at that time?

A. I devoted my attention principally to the fresh meats, pork loins, shoulders, and all different beef cuts.

Q. Any beef?

A. Why, occasionally; did not get any beef in until after January, 1917.

Q. Now, state more fully what you saw and observed with regard to sales by salesmen of Swift & Company?

A. Nothing in particular, only they were trying to sell goods like the other competitors of ours were, their own products.

Q. And did that include all the same products that you were selling for the Andalusia Packing Company?

A. Same kind of products, same cuts.

Q. Not the same character, but the same kind, fresh meats, the same kind of cuts?

A. Yes sir.

529 Q. What was this principally what is known as western pork that is, the pork that the Swift & Company salesmen were selling?

A. Western pork, corn fed stock.

Q. And as you called upon retailers from day to day in this market, did you observe the same kind of meats that you were selling in there—please state what you observed in regard to the goods they had in stock?

A. The other packers were selling western products, one or two packers here were selling some of the southern product.

Q. Were you able to tell from marks on the meats the source from which they came?

A. Yes.

Q. Did you see any there from Swift & Company?

A. Southern product, at that time?

Q. If any, any kind, state what kind you saw from Swift & Company?

A. Western boods, that is all.

Q. And what were they?

A. Corn fed stock.

Q. By corn fed stock, what do you mean, what kind of stock?

A. Western.

530 Q. What kind of animal, stock, what kind of animals?

A. Why, pork and beef.

Q. How long did you continue to sell this meat product of the Andalusia Packing Company?

A. Sold it from November until the latter part of September, 1917, November, 1916, to September, 1917.

Q. Able to find a good market for it?

A. Yes sir.

Q. Sell all you could get?

A. Yes sir, could have sold more.

Q. Develop that idea, tell us more particularly about your experience with regard to selling it, and with regard to getting it, what the condition you found was, both with regard to selling it, and with regard to getting it?

A. Well, at that time, we had—there seemed to be—of course, the Andalusia Packing Company being in Alabama, why, we were rather active in developing that account, telling the people that it was a home state institution, and they goods that they turned out very good, and the trade seemed to like it. Of course we began increasing the business and sold all that we practically could get from them. We were fortunate in having an overnight run out of Alabama,—

531 that is, out of Andalusia into Birmingham, and we got the cars in promptly—they were not delayed any.

Q. And did that have any effect on the quality of the meat, as you were able to deliver it to the retailer?

A. Oh, yes.

Q. What was it?

A. It got to us in the fresh state; would not have to freeze any of it at all, brought it in here, was not—the run was practically eighteen hours from the time it left the packing house until the time we were able to make delivery.

Q. And with those advantages, was there very much of it used?

A. We were able to build up a quite a nice trade on it.

Q. Could you tell about how much of the Andalusia meat was used here in this market, that is, in relation to the other meats of the same kind?

Mr. Horton: We object to that, I dont believe that anybody, unless they properly studied the situation, un-

less they had had the advantage of facts and figures on the proposition, can answer it. It is a broad question.

Examiner Sadler: The objections will be noted.

The witness: Want me to answer?

Q. (By Mr. Taylor): Please state what your recol-
532 lection—or or, rather, what your observation in that connection was—first, can you form any estimate? The question calls for an answer of yes or no.

A. The only rough estimate that I can form is that in the section in which we sold those goods in Birmingham, and the amount of fresh meat that we did sell, in a stated period.

Q. Yes; I want you to limit your answer to what you actually observed and saw, and feel that you can answer with a reasonable degree of correctness and accuracy.

A. Pretty hard matter to tell how much was sold, you know.

Q. What would be your best judgment?

A. About twenty five per cent of what was sold at that time in the downtown section, trade that we principally went after.

Mr. Horton: I move to strike out the answer, your Honor.

Examiner Sadler: The motion to strike will be noted.

Mr. Horton: Just a minute.

Examiner Sadler: Pardon me.

Mr. Horton: It is indefinite, too indefinite.

Mr. Taylor: In what respect?

Mr. Horton: It does not refer to any particular time, and it is not based upon anything; as the witness said, it is a rough estimate, and a rough guess, and it is not definite
533 enough for the purposes of this issue.

Mr. Taylor: I dont think the witness characterized it as a rough guess; he was calling upon these people from day to day for the purpose of selling them meat, the same kinds which they were buying, both from him and from other sources; he is a salesman, I think the court will take judicial notice of the fact that it must have been necessary for him to know what these people actually had in stock, in order to know what they were in the market for, to know whether he could sell them his produce, so that it is a thing that was necessary in the course of his business, for him to keep before his mind constantly, all of the time, what they had, what they were buying, that amount of their output.

Examiner Sadler: The objection will be noted.

Mr. Horton: It is a motion to strike.

Examiner Sadler: And the motion to strike will be noted.

Q. (By Mr. Taylor): Now, Mr. Bauer, this period that you have been talking about about along during the—

Mr. Horton: I object to leading the witness, to counsel leading the witness.

Q. (Continuing) During the year 1916, 1917, and down through July and August of 1917—directing your attention more particularly—strike out the year 1916—during the year 1917, down to, say, the end of August, 1917, directing
534 your attention more particularly to that time, what will your answer be with regard to the percentages?

A. Of goods sold?

Mr. Horton: Same objection.

Examiner Sadler: The objection will be noted.

A. Of goods sold by us and what was sold by the other packers?

Q. Yes, the proportion of the Andalusia pork, the Andalusia meat products, compared with the fresh pork—the Andalusia fresh pork as compared with the fresh pork of the other packers.

Mr. Horton: By the other packers, do you mean all the other packers, and all of the slaughterers, local slaughterers and all?

Mr. Taylor: All the other goods that he saw in the markets.

A. The trade I went to see and handled, in that section, my judgment, it would be twenty-five per cent.

Mr. Horton: I move to strike out the answer on the grounds previously mentioned.

Examiner Sadler: The motion to strike will be noted.

Q. (By Mr. Taylor): Now, will you please describe more in detail the part of the city that you include in that answer?

A. Why, Second Avenue, Fourth Avenue, Eighteenth Street, Twentieth Street, Avondale, Woodlawn and Ensley.

535 Mr. Horton: What is the last one, please?

A. Ensley.

Q. (By Mr. Taylor): How much of the city of Birmingham does that leave outside of the territory that you described?

A. A large portion of it. There is any number of small dealers; that leaves out North Birmingham; that leaves out Pratt City, Eastlake, and a considerable portion of the center of Birmingham.

Q. And why do you leave them outside of your estimate?

A. We had not facilities to do the delivering to those sections; therefore we did not cater to their trade.

Q. Do you know what the trade bought outside of that distract that you included in your estimate?

A. They bought from all the other packers.

Q. Is the section of the city that is included in your estimate in what is known as the downtown portion of Birmingham?

A. Yes sir.

Q. And does that include any—the entire business portion of Birmingham?

Mr. Horton: I object to counsel leading the witness; I further objection to the ruling that is being made upon it; I think that is a matter which the Examiner ought to rule definitely on. He can see that the questions are leading,
536 and it is a matter which ought to be prohibited; it goes to the information which is being elicited from the witness.

Examiner Sadler: Counsel for the commission will not lead the witness.

Q. (By Mr. Taylor): Will you please describe the character of business that is done in the district of Birmingham which is included in your estimate?

A. Why, Second Avenue, Fourth Avenue, Eighteenth Street—

Q. (Interrupting) Yes, I know, but the Federal Trade Commission doesnt know what kind of business is done on Second Avenue, Fourth Avenue, or Eighteenth street, and the court does not know. I want a description here by which the commission and court will later on know what kind of business was done there.

A. Well, the principal meat markets are on those streets, and the larger buyers; they sem to be the meat centers of Birmingham.

Q. By the larger buyers, just what do you mean?

A. The buyers that will buy from three hundred up to a thousand or fifteen hundred pounds at a time.

Q. Have you any idea what proportion of the total meat of the city of Birmingham is bought within the distrcit
537 which you have included in your estimate?

A. In the section that I just mentioned?

Q. Yes.

Mr. Horton: I object to that question.

A. About thirty per cent.

Examiner Sadler: The objection will be noted.

Q. What district of the city of Birmingham are the dry goods stores and shops, and the general shopping district in?

Mr. Horton: Object to that?

A. Why, First Avenue to Fourth.

Examiner Sadler: The objection will be noted.

A. And from 19th to 21st.

Q. Now, what is the relation with regard to the location of these shops to the district which you have included in your estimate?

A. Well, they seem to be centrally located, and they do lots of advertising and draw the trade of the public down to them.

Q. I dont think you fully answered the question. I ask that the question be read to the witness again.

(Question read)

A. I dont quite get that.

Q. What is the relation with regard to the district in the city of Birmingham in which the shops, and trading places that you have mentioned, the department stores, with re-
538 lation to the district that is included in your estimate where you sold your met products, where you estamated that there was about twenty-five per cent of Andalusia meat handled and sold?

A. With relation to the department stores?

Q. What is the relation of the districts covered by the two locations?

A. Why—

Q. You have described the shops as being in a certain location; you have described the district in which the estimate is made, what is the relation between the locations of those two?

A. They are practically in the same location, with the exception of one or two blocks difference, that is all, all in that same area.

Q. Where are the office buildings in the city of Birmingham located?

A. In the center of the city, First Avenue, the district that I have mentioned.

Q. Do you mean the district which you estimated the twenty-five per cent of the fresh pork was used?

A. Practically in that same district, yes sir.

Q. Now, up to what time did you say that you continued to sell the Andalusia meat products?

539 A. Latter part of September, 1917.

Q. What happened at that time, at the time you stopped selling?

A. The plant was sold to Swift & Company.

Mr. Horton: I object to the answer and move to strike it out as being based upon hearsay information.

Examiner Sadler: The objection will be noted.

Mr. Taylor: Mr. Examiner, we are not endeavoring to prove by this witness that the plant was sold to Swift & Company, we are simply showing conditions which existed here in the market, things which are material to this issue. For that purpose I submit the evidence is perfectly competent. Now, I will ask the witness for the same purpose when he first heard that the plant had been sold to Swift & Company?

A. In July 1917.

Mr. Horton: Object to that, and move to strike it out as being hearsay evidence.

Examiner Sadler: The objection will be noted and the motion to strike will be noted.

Q. (By Mr. Taylor) And what did you hear about that?

A. that Swift & Company had bought the Andalusia Packing Company.

540 Mr. Horton: Object to that and move to strike it out as being hearsay evidence.

Examiner Sadler: The objection will be noted, and the motion to strike will be noted.

Mr. Taylor: Oh, I admit that it would be hearsay and incompetent if we were attempting to prove the purchase of the plant by Swift & Company. For that purpose it would undoubtedly be absolutely incompetent.

Q. How did you hear this?

A. Why, Mr. C. P. White, the manager of Swift & Company branch here at that time is the one that gave the information.

Q. Well, I think we are coming pretty close now. I dont know that I will make the same concession that I did before. What did Mr. White say?

A. He came in the office and said that he understood that Swift & Company had bought the Andalusia Packing Company.

Mr. Horton: We object to that and move to strike out both this and the preceding question and answer, because it is shown that even Mr. White did not know what he was talking about.

Examiner Sadler: The objection will be noted and the motion to strike will be noted.

Q. (By Mr. Taylor) And did you say anything—did
541 Mr. White say anything about your account, about you continuing to handle Andalusia Meat products?

A. Not that I can recall.

Q. Now, when did you next hear anything about Swift & Company buying the Andalusia plant?

A. Why, Mr. Blutaw came in to see us one day, from Swift & Company.

Q. Who was Mr. Blutaw?

A. I dont know, I have never seen him since; he claimed he was connected with Swift & Company, from Chicago; said he had been down to Andalusia, and just came from there.

Mr. Horton: I object to that and move to strike it out, as hearsay.

Examiner Sadler: The objection will be noted, and the motion to strike will be noted.

Q. (By Mr. Taylor) When was this Mr. Blutaw called?

A. The best that I can recall it was in the latter part of July, 1917.

Q. What did Mr. Blutaw say?

Mr. Horton: We object on the grounds previously mentioned. May it be understood that my objections go to this entire line of testimony?

542 Examiner Sadler: Yes. The objections will be noted.

A. Blutaw said that he had just come back from Andalusia, and he was on his way to Chicago; we asked him how everything was around there; he said everything was moving along in pretty fair shape. I asked him then what he intended to do about E. P. Allen & Company. He told us as far as he knew it would go along in the same manner in which it had been going.

Q. Well, now, what next happened, what next did you hear about the purchase of the plant by Swift & Company?

A. Why, along in August, I think, Mr. Rogers came in and said he was the manager, on his way back from a vacation, and introduced himself to us.

Q. He was manager of what?

A. Andalusia Packing Company.

Q. Was Swift & Company's name mentioned at that time?

A. Yes, he said he was on his way back from the home office, back from Chicago, on his way back to Andalusia. Mr. Allen asked him at that time what they intended to do with

E. P. Allen & Company. He said as far as he knew the arrangement was going to continue.

Q. You were present and heard this conversation?

Mr. Horton: I object to that, does not go to the issues
543 in this case at all.

Examiner Sadler: The objections will be noted.

Q. (By Mr. Taylor) What did you next hear with regard to the purchase of the Andalusia plant of Swift & Company, if anything?

A. The next we heard Swift & Company were getting the products from Andalusia and we were not.

Q. How did you hear that?

A. By not getting any products, and seeing one or two of their cars come in.

Q. Well, describe more in detail just what you did see and hear on that occasion?

A. Well, I saw a car of pork come in to Swift & Company from there, several days after we got our last shipment; then after that I saw one or two other cars.

Q. How did you know that it was Andalusia Pork?

A. Well, I was down there one day, in reference to some other matter, when Mr. White told me there was a car of Andalusia pork out there at his door.

Q. Who was Mr. White?

A. He was manager of Swift & Company at that time.

Q. Was Mr. Allen trying at that time to get pork and
544 other meat products from the Andalusia plant?

A. Why, just previous to that Mr. Allen made his last trip down there.

Q. Were you with him when he made his last trip down there?

A. No sir.

Q. Do you know what efforts Mr. Allen was making along about this time to get Andalusia meats?

A. Mr. Allen made a trip down there in September, latter part of September, and of course all I can tell is what Mr. Allen told me when he returned; he said—

Mr. Horton: I object to what Mr. Allen told him; furthermore Mr. Allen testified about this pretty well.

Q. (By Mr. Taylor): You know Mr. Allen went down about that time?

A. Yes sir.

A. Had you been getting all the meat you wanted up to the time Mr. Allen went down this time?

A. Oh, no; no sir, had not.

Q. Were you able to sell it in the same volume that you had been before?

A. We would have sold within sixty per cent of what we had gotten previously, along in January and February,
545 if we could have gotten it, if he could have gotten the pork at that time.

Q. Could you have sold as much meat as you could at the same season of the year the preceding year?

A. Yes, yes, we could have sold a lot more, times were better.

Q. Now, right there, you are talking about September, 1917?

A. I understood I was talking about along in from July up to September 1917.

Q. From July, 1917, to September, 1917, you compare that with what you had done the previous year?

A. No, we were not in the business the previous year. I think there had been more sold that year than the previous year, because times were better in Birmingham.

Mr. Horton: But I understood that you are comparing one year with another year.

A. No, I could not compare it, I was not here.

Q. (By Mr. Taylor): Does pork sell better at one season of the year than another?

A. Oh, yes.

Q. When, during what period of the year does it sell the best, and when is there the least consumed of it?

A. My experience has been that July and August have been the poorest months of the year on fresh pork.

546 Q. When does the sale begin to pick up?

A. October.

Q. October?

A. About October.

Q. About what percent are the sales of July and August compared with the sales of January and February, ordinarily?

A. Well, my experience has been that we have sold within eighty per cent in July and August of what we have sold in January and February.

Q. Can you explain this falling off during the months that you have mentioned?

A. Due to the hot weather; people dont want fresh meat, as they do in cold weather.

Q. And this falling off in July and August as against the heavy season is not more than twenty per cent?

A. Not with us it is not; I could not tell about anybody else.

Q. Now, take this particular year again; compare July and August in regard to the Andalusia products with January and February of the same year, that is, compare the January and February sales of Andalusia products with the July and August sales, about what proportion would they stand in?

547 A. You mean the fresh meat products?

Q. Yes.

A. I would have to refer back to my records on that.

Q. Have you got any records that you can refer to?

A. Yes.

Q. What months does your record cover?

A. From January, 1917, to including September, 1917.

Q. (By Mr. Horton): Just a minute, may I see your memorandum there?

A. You want to look at that? Sure.

Mr. Horton: I notice this is a little slip of paper written with a typewriter or an adding machine?

A. With an adding machine.

Q. (By Mr. Horton): With an adding machine. This was evidently made within the last day or two?

A. That was taken from my little record here, personal record book, that I have had laying in the drawer for the last three or four years.

Q. When were those records made?

A. Why, at the time we received the shipments.

Q. (By Mr. Taylor): Made by you?

A. Made by me personally, yes sir. Do you want to see that?

Q. Do you know that they are correct?

548 A. Yes sir, they are corredt.

Q. Now, Br. Bauer, referring to your black book, could you tell how much of the Andalusia meat you sold in the month of January, 1917?

A. 201,353 pounds.

Q. What kind of meat was that?

A. That was fresh pork and beef.

Q. How much was sold in the month of February?

A. 138,707 pounds.

Q. What was that?

A. That is the same, fresh pork and beef.

Q. Fresh pork?

A. And beef.

Q. And beef. And in the month of March?
A. 108,268.
Q. What was that?
A. It was the same.
Q. And the month of April?
A. 80,672.
Q. And the month of May?
A. 34,528.
Q. And the month of June?
549 A. 63,786.
Q. And the month of July?
A. July I have not got down here, added up, you have got the figures there. July, 16156, August, 28091, September 11172,
Mr. Horton: Pardon me, what was that September?
A. 11172.
Q. (By Mr. Taylor): And was all of that fresh meats?
A. Yes sir.
Q. Fresh pork and fresh beef?
A. Yes sir.
Q. Now, what have you sold subsequent to September, of the Andalusia meats, of the fresh meats?
A. Nothing.
Q. I say, what have you sold?
A. Why, what we have sold?
Q. You?
A. Oh, I have sold—
Q. Of the Andalusia meat?
A. Nothing, the last we received from Andalusia.
Q. Now, I call your attention again to the figures which you have just given, and I will ask you if you wish to revise your percentages with relation to January and February and July and August, as to the sales of the Andalusia meat which you made?
A. Oh, I dont remember testifying to the sale of An-
550 dalusia meat. You asked me in that question about how July and August ran with us in the sale of pork.
Q. I referred to Andalusia.
A. Oh, you referred to Andalusia?
Q. Yes.
A. Andalusia we sold all we could get; that is all we could get from them at that time.
Q. Is that the reason your sales fell off so greatly in July and August?
A. Yes sir, and also in May.

Q September?
A. Yes sir.
Q. And will you state again about what your percentages are, per cent of pork sales, that is, all kinds, with relation to those two periods, January and February, on the one hand, and July and August on the other hand, what E. P. Allen & Company can sell—
A. We can sell eighty per cent in July and August of what we sell in January and February.
Q. That is including all the kinds of prok you handled?
A. That is the kind we sell at the present time, the business we are in. We are in the brokerage business.
551 Q. That is, if you can get the goods.
A. That is if we can get the goods.
Mr. Horton: That includes all the houses you represent?
A. Yes.
Q. (By Mr. Taylor): You are speaking about fresh pork?
A. I am talking about fresh pork.
Mr. Taylor: You can cross-examine.

Cross-Examination by Mr. Horton.

Q. Mr. Bauer, from November, 1916, to September, 1917, was E. P. Allen & Company representing any other packers?
A. On fresh meats?
Q. Yes.
A. No sir, not on the fresh meats.
Q. Were you representing any other packers in other lines?
A. Oh, yes.
Q. What others?
A. Wilson Provision Company at Peoria, Illinois, and the Sinclair Sales Company, Cedar Rapids.
Q. And what class of meats did you sell for them?
A. Ham, bacon, lard, and provisions.
Q. By provisions you mean what?
552 A. Hams, bacon, dry salts.
Q. Are there many different kinds of dry salt meat?
A. Why, we only—practically the only sale here is dry bellies, dry salt regular plates, rib bellies, that is all.
Mr. Horton: I think that is all.
Mr. Taylor: That is all.

Examiner Sadler: The witness will be excused, and we will take a recess.

(Whereupon a recess was taken at 10:35 A. M.)

After Recess

10:50 A. M.

Examiner Sadler: The hearing will come to order.

553 J. T. HACKNEY called as a witness for the Commission at Birmingham, Alabama, on March 10, 1921, after having been first duly sworn testified as follows:

(Pages 842-846)

That he was engaged in the retail business in the city of Birmingham handling fresh beef and pork as well as smoked and salted meats; that in about 1916 or 1917 he began to purchase meat products produced in Andalusia, Alabama from E. P. Allen & Co.; that he bought hams and bacon fresh pork products such as shoulder, loins and hams and probably a few pigs from E. P. Allen & Co.; that he began buying from them when they first started handling the Andalusia products, but did not remember how long he handled those products; that during the same period of time he also purchased products from E. N. Wood that were produced by the Moultrie Packing Company; that during that same period of time he bought fresh pork, hams and smoked meats from Swift & Co.

554 (Witness excused)

Mr. Taylor: Mr. Examiner, I at this time wish to have marked for identification the map of the state of Georgia which I here present, on which map appear crosses in blue pencil, marked on certain of the counties of the state. These blue pencil crosses were placed there by Mr. Vereen, just after the close of his testimony taken at Atlanta, Geor-
555 gia. This map also bears marks in red pencil on the map in the form of circles surrounding certain cities, which red pencil marks were placed on the map by Mr. Harrison as the time of his examination in Atlanta, as representing the cities in the state of Georgia in which Swift & Company have branch houses, is that correct?

Examiner Sadler: The map will be marked Exhibit A-21 for identification.

(The said map was thereupon marked "Exhibit A-21 for identification.)

E. B. ADAMS called as a witness, having been first duly sworn, testified as follows:

Direct Examination.

Examiner Sadler: What is your name?

A. E. B. Adams.

Q. Swift & Company, isnt it?

A. Yes sir.

Q. (By Mr. Haycraft): What is your occupation, Mr. Adams?

A. District sales manager, Swift & Company.

Q. How long have you held this position?

556 A. Since May 16, 1911.

Q. What was your occupation prior to that time?

A. Sales manager, Swift & Company, Atlanta, Georgia.

Q. You said 1911, didnt you?

A. Yes sir.

Q. Salesman for Swift & Company, Atlanta, Georgia, did you say, that was covering the Atlanta district, do you mean?

A. No, Atlanta branch house.

Q. Atlanta branch house?

A. Yes sir.

Q. How long had you been in that position?

A. I dont recall the exact date. The fall of 1908, I think.

Q. Prior to that time.

A. Sales manager, Savannah, Georgia.

Q. How long?

A. Approximately two years. It is pretty far back.

Q. How long have you been in the employ of Swift & Company all told?

A. Since October 1st, 1900.

Q. Now, do I understand that you have been district manager for Swift & Company since 1911?

A. Yes.

557 Q. During the years 1916 and '17, what was your district, what branch houses comprised your district?

A. You want me to name all the branches I have, the cities, the territory?

Q. You can name the branch and the city and state it is located in.

A. Well, Birmingham, Alabama; Gadsden—

Q. What?

A. Gadsden, Albany, Alabama; Anniston, Alabama; Huntsville, Alabama; Memphis, Tennessee; Greenville, Mississippi, Greenwood, Mississippi; West Point, Mississippi; Tupelo, Mississippi.

Q. How do you spell that?

A. T-u-p-e-l-o. Meridian—Montgomery, Alabama; Meridian, Mississippi; at that time I have—I had this southern territory that I have not got now. In 1916 and '17 I had some territory that I have not got now.

Q. What was that?

A. Jackson, Mississippi; Vicksburg, Mississippi; Baton Rouge, Louisiana; Donaldsonville, Louisiana; New Orleans; Hattiesburg, Mississippi; Mobile, Alabama; Pensacola, Florida.

Q. You have given us twenty.

558 A. Skipped one, then.

Q. Twenty, that is right.

A. 1916 and '17, yes, I think that is right; in 1916 and '17. We changed, added on and cut off.

Q. Now, when did that change take place, the first change after 1916 and '17?

A. At the end of 1917.

Q. About January 1st, 1918?

A. No, 1918, end of 1918.

Q. About January 1st, 1919?

A. Yes.

Q. Now, what change was it took place at that time?

A. Well, starting from here down—

Q. Meridian?

A. Meridian down, yes.

Q. Then what happened, division of your territory?

A. Yes.

Q. Somebody else given management of it?

A. Yes, split up.

Q. Then from January 1st, 1919, until date, what branches, did you have, did you have in your territory?

A. Well, we had those up until the present.

559 Q. Yes. Birmingham, Gadsden, Anniston, Huntsville, Montgomery, Albany, Alabama; Memphis, Tennessee; Greenville, Mississippi, Greenwood, Mississippi, West Point,

Missippi, Tupelo, Mississippi. Any others? Meridian, Mississippi.

A. August 1918, my recollection, we opened a branch house at Sheffield, Alabama.

Q. Now, then, who has charge of the district in which the Mobile, Alabama, and Pensacola, Florida, branches are located?

A. Mr. J. D. Carroll.

Q. And where is his office?

A. New Orleans.

Q. Now, directing your attention to the period during the years 1916 and 1917, when all these twenty branches were under your jurisdiction, will you state whether or not—first, will you state what products were sold through the various branches?

A. Fresh meats and provisions, produce.

Q. With no exceptions. You mean all branches handled the full line?

A. They all handled the same. Of course, smaller points handled very little fresh meats.

560 Q. How were the sales made? By that I mean did you have salesmen, or did people come to your branch houses and buy?

A. Both.

Q. Take Birmingham; how many salesmen did you have in Birmingham? In 1917.

A. I could not say exactly, approximately seven.

Q. Did they cover the city and surrounding territory, or did they—

A. City and suburbs.

Q. City and suburbs. Did you have any salesmen going out and covering the country towns, small towns?

A. Possibly had one.

Q. Gadsden, Alabama?

A. Number of salesmen?

Q. How many salesmen did you have in 1916 and '17?

A. Two, total.

Q. What did they cover?

A. Suburbs.

Q. City and suburbs?

A. Country territory.

Q. Country territory?

A. Manager worked the city.

561 Q. Anniston?

A. Well, we had a camp there; normally two; during

the camp, which my recollection the camp period was the latter part of 1917; we had possibly six or eight.

Q. Covering surrounding territory, I suppose, the two, the two that you had there normally?

A. Well, one covered surrounding territory, and one the city.

Q. Huntsville, Alabama?

A. Two.

Q. Would your answer be the same there as to Anniston, in regard to territory covered?

A. Yes, with the exception of the camp, of course.

Q. Montgomery, Alabama?

A. That territory has been changed considerably, too. We also had a camp there; normally four; two in the country and two in the city.

Q. Albany?

A. At that time, one.

Q. He did all the work, did he?

A. Well, the manager would go out and do a little.

Q. Some outside territory covered, was there?

A. He covered the outside territory.

562 Q. Memphis, too—but wait a minute, now; strike that. Mobile, Alabama?

A. Four. Two city and two country.

Q. Pensacola, Florida?

A. You understand I am giving you my best recollection on this?

Q. Oh, yes.

A. I would say four, two in the city and two in the country.

Q. Now, I show you a map of the state of Alabama, and I will ask you to take that red pencil, and mark each branch house.

A. You want to cover the southern, too.

Q. Yes, I want the—from this here—there is Pensacola, Florida; you can mark that also, on this map.

(The witness marked the map as directed.)

Q. You make a cross mark at Sheffield, so we will just know where it is.

A. I guess that covers all of them, doesnt it?

Q. Now, then, while you have the map before you, Mr. Adams, Will you indicate on it as best you can the territory covered by the Birmingham branch house by salesman?

A. I am not overly familiar with that.

Q. Make a mark on the railroads as far as you think the

salesmen travel, referring of course, to the period of 1916 and 1917 now.

563 (The witness marked the map as directed.)

Q. Now, connect those marks with a line, to give us an idea of the territory on the map.

(The witness marked the map as directed.)

Q. Now, then do the same with the Anniston branch.

A. I am giving you my best recollection on this.

(The witness marked the map as directed.)

Q. Connect up the marks that you have made.

(The witness marked the map as directed.)

Q. Now, the same for Gadsden.

(The witness marked the map as directed.)

Q. Now, Huntsville.

A. Cannot cover the entire territory, have to get another map.

Q. Cover the territory that appears on this map; that will be sufficient.

(The witness marked the map as directed.)

Q. Then would you mean by the indication you have made there that part of the Huntsville territory was in Tennessee?

A. In Tennessee, yes.

Q. Now, mark the branch house territory in Albany in the same manner.

564 (The witness marked the map as directed.)

Q. I notice you have included in the Albany territory the town of Sheffield.

A. At that time they were handling Sheffield.

Q. Now, will you mark the territory covered by the Montgomery branch house in the same manner?

(The witness marked the map as directed)

Q. Connect up those points in the same manner.

Mr. Horton: Now, I am going to object to the witness connecting up the lines he has made as requested by counsel, for the reason that it makes it appear that all the territory encompassed within the circle is worked by the respondent's salesmen, and as a matter of fact such is not the case. The salesmen simply work the railroad lines, not all the towns and villages and cities on the railroad lines.

Mr. Haycraft: Well, either direct examination or cross-examination will bring out that fact; it should not affect in any way the work that is being done now.

Mr. Taylor: Or the contrary, as the case may be.

Examiner Sadler: The objections will be noted.

Mr. Haycraft: Please connect up the marks.

Mr. Horton: I object to the witness connection it up;
565 I think you are asking the witness to do something which he should not be asked to do.

Mr. Haycraft: The examiner has ruled on the question.

Mr. Horton: I dont care what the examiner has ruled for that particular case.

Mr. Haycraft: I move that the witness be instructed to connect it up as requested.

The Witness: As I said at the beginning, we dont cover all this territory; dont cover all those towns.

Mr. Haycraft: Proper questioning will bring forth the facts, and I intend to continue this examination as I think best.

Examiner Sadler: If the witness has knowledge of the facts, and can connect them up, I wish he would do so.

Mr. Horton: Let me examine the witness, please.

Mr. Haycraft: Wait until I get through, please, until I get through making these marks, and then you can ask him any questions you want to.

Mr. Horton: My examination now goes to the point that the true facts are not being shown by making this circle, the think that you are now asking the witness to do.

Q. (By Mr. Haycraft): Well, go ahead, then.

Q. (By Mr. Horton): Mr. Adams, your procedure,
566 your method of procedure here has been to make a little red mark upon the railroad line, which I take it indicates the point at which your salesmen stopped and turned back, or turned over on some other railroad line?

A. That is considered the Montgomery territory; we did not always work these houses, did not always cover all of their territory, but this is alloted out to different points, different branch houses, points, that is my recollection of the allotments; I would not say that we worked fifty per cent of the entire territory; that is known as Montgomery's allotment.

Q. But is it correct that you have indicated upon the railroad with a little red mark the point at which your salesmen stopped?

A. Yes.

Q. Then you have proceeded to draw a line through these marks, around the town, to make a circle?

A. Yes.

Q. Now, is it true that your salesmen worked all of the territory inside of that circle?

A. No.

Mr. Horton: All right, you can go ahead.

Mr. Haycraft: Q. Now, can you indicate on this map
567 the territory covered by Mobile, or approximately — I notice you have covered the last branch house on this side.

A. My recollection of those points is pretty hazy; I dont recall this territory out here (indicating).

Q. Do you mean west of Mobile, on the Gulf, Mobile, and Northern? Northwest?

A. Northwest, yes.

(The witness marked the map as directed.)

Q. Connect up those in the same manner.

(The witness marked the map as directed.)

Q. Now, I notice sme territory between the Mobile territory and the Montgomery territory not covered by any branch house, so far as indicated. How do you account for that?

A. These territories have been changed a great many times in the last five years; for instance, this point of Selma, in the past five or six years, it has been handled by Montgomery, Meridian and Birmingham.

Q. You dont recall now just which territory it was in at that time, 1916 and '17?

A. My recollection at that time it was in Meridian, that is my recollection.

Q. Then what would be your statement in regard to the other territory in Alabama, west of the territories indi-
568 cated by your red pencil marks, and particularly up and down the western border of Alabama, that is not included in any of these?

A. Meridian, West Point.

Q. West Point, Mississippi?

A. West Point and Meridian, Mississippi.

Q. Do you recall the territory covered by the Pensacola branch at that time? I show you another map here, a map of Florida. Would you indicate on this map the territory covered by the Pensacola, Florida branch?

A. My recollection of those houses down there is pretty vague; I have not had charge of them for several years. They came up to Flomerton there.

Q. On the L. & N.?

A. Yes. I dont recall just how far they went west.

Q. East, you mean?

A. East, yes. I recall this point here.

Q. You say it went as far east as DeFuniak Springs?

A. I recall that point, that is on the L. & N.

Q. You dont recall this exact territory covered by the Pensacola, Florida, branch?

A. It is pretty hazy; the territory is badly scattered down there.

569 Q. Now, you stated at the time that Mr. Horton was cross-examining you in regard to this territory covered by the branches in Alabama that some of the towns on the railroads were not worked by your salesmen; how do you account for that?

A. Unprofitable; not enough business there.

Q. You mean by that that they never went there, or only went there intermittently?

A. Well, we would call occasionally; we would get some orders through the mail, you see.

Q. Through the mail?

A. Occasionally.

Q. How about the inland towns, did you ever get any mail orders from the inland towns in the territories indicated?

Mr. Horton: I object to the question as being too indefinite.

Examiner Sadler: The objection will be noted.

A. I could not say specifically.

Q. Well, would you say that there was any part of the state that was not covered by your sales organization in some way?

A. Yes.

Q. What part of the state would that be?

A. Well, it would take me—I could not answer the question—I know, have a general idea of these things, but

570 you understand I covered a pretty big territory, I am not right—for instance, possibly I may not get to Montgomery for a period of six months, and I dont know what is going on there when I am not there.

Q. Well, now, of course, I am speaking of the time, 1916 and '17, and I am asking, of course, for the sales policy of Swift & Company as promulgated by yourself. My question is as to that policy; whether any particular territory in Alabama which you knew was not covered at that time by the Swift sales organization?

A. I could not point it out; I would say that there were, but I could not point out the immediate towns in 1916; what we did in 1916; I did not follow these individual salesmen, you know.

Q. Well, you issued their instructions as to the territory they were to cover in a general way, didnt you?

A. Well, we have managers, you understand.

Q. Yes. Those managers worked under your instructions, did they not?

A. Well, as far as is consistent with telling them to go after business and get business, and make money; the territory that is unprofitable, why, we may pass it up tem-
571 porarily, that month or a couple of months.

Q. I understand, of course, Mr. Adams, that there might be places in the state in certain branch house territory that would be unprofitable that you would pass up from time to time; and might be places that are out of the way that could not be easily reached, but I am asking as to the sales policy of your organization, whether any particular part of the state of Alabama which you exempted and did not make any attempt whatever to sell?

A. No.

Mr. Horton: I move to strike out the answer upon the grounds that the sales policy is immaterial.

Examiner Sadler: The motion to strike will be noted.

Q. (By Mr. Haycraft): Now, Mr. Adams, I believe you were requested to bring some records this morning, the subpoena calls for monthly or other periodical statements showing sales of meat and meat products by Swift & Company through its branch houses in Birmingham territory for the years 1916 and 1917, 1918 and 1919. What records have you produced in answer to that subpoena?

A. Those there (indicating).

Q. How would you describe them, Mr. Adams?

572 A. Weekly sales and earnings.

Q. And by whom are these records prepared?

A. By our bookkeepers.

Q. Where?

A. At the various points.

Q. You mean branch houses?

A. Various branches.

Q. And what disposition is made of these records, how are they used after they are prepared by the branch house bookkeepers?

A. Well, they are sent in to Chicago, and a copy to me.

Q. Here in Birmingham?

A. Birmingham.

573 E. B. ADAMS, called as a witness by the Commission at Birmingham, Alabama, on March 9, 1921, after having been duly sworn, testified in substance as follows:

(865-872 891-990)

(Quote verbatim testimony—Page 847 to 864 where Mr. Horton addressed the Examiner as follows: "Mr. Examiner, May I examine the witness at this point as to the subpoena?")

Referring to record produced at the hearing stated the volume of fresh pork, smoked meats, dry salt and bacon meats and pure lard sold by Swift & Company through the branch houses of Swift & Company in his territory (Gadsden, Ala., Anniston, Ala., Birmingham, Ala., Huntsville, Ala., Montgomery, Ala., Albany, Ala.) during the last week in the months of March, June, September and December during the years 1916, 1917, 1918 and 1919; and for the years 1916, and 1917 of the branch houses located at Mobile, Ala., and Pensacola, Fla.; that the volume of fresh pork sold through the Birmingham, Alabama branch house during the year 1916, was:—1,553,644 pounds; that the total volume of smoked meats sold through the Birmingham, Alabama branch house during the year 1916, was:—850,740 pounds; that the total volume of dry salt and bacon meats sold through the Birmingham, Alabama branch house during the year 1916, was—2,062,159 pounds; that the total volume of pure lard sold through the Birmingham, Alabama branch house during
574 the year 1916, was:—937,999 pounds. That the total volume of fresh pork sold through the Montgomery, Alabama branch house during the year 1916, was:—318,365 pounds; that the total volume of smoked meats sold through the Montgomery, Alabama branch house during the year 1916 was: 645,476 pounds; that the total volume of dry salt and bacon meats sold through the Montgomery, Alabama branch house during the year 1916 was:—941,983 pounds; that the total volume of pure lard sold through the Montgomery, Alabama branch house during the year 1916 was:—285,217 pounds. That the total volume of fresh pork sold through the Huntsville, Alabama branch house during the year 1916 was:—12,961 pounds; that the total volume of smoked meats sold through the Huntsville, Alabama branch house during the year 1916, was:—220,585 pounds; that the total volume of dry salt and bacon meats sold through the Huntsville, Alabama branch house during the year 1916 was:—647,330

pounds; that the total volume of pure lard sold through the Huntsville, Alabama branch house during the year 1916 was:—433,542 pounds. That the total volume of fresh pork sold through the Albany, Alabama branch house during the year 1916, was:—13,966 pounds; that the volume of smoked meats sold through the Albany, Alabama branch house during the year 1916 was:—37,529 pounds; that the total volume of dry salt and bacon meats sold through the Albany, Alabama
575 branch house during the year 1916 was:—259,412 pounds; that the total volume of pure lard sold through the Albany, Alabama branch house during the year 1916 was:—102,694 pounds. That the total volume of fresh pork sold through the Gadsden, Alabama branch house during the year 1916 was:—143,619 pounds; that the total volume of smoked meats sold through the Gadsden, Alabama branch house during the year 1916 was:—208,642 pounds; that the total volume of dry salt and bacon meats sold through the Gadsden, Alabama branch house during the year 1916 was: 637,959 pounds; that the total volume of pure lard sold through the Gadsden, Alabama branch house during the year 1916 was:—727,479 pounds; that the total volume of fresh pork sold through the Anniston, Alabama branch house during the year 1916 was:—77,424 pounds; that the total volume of smoked meats sold through the Anniston, Alabama branch house during the year 1916 was:—133,839 pounds; that the total volume of dry salt and bacon meats sold through the Anniston, Alabama branch house during the year 1916 was:—570,324 pounds; that the total volume of pure lard sold through the Anniston, Alabama branch house during the year 1916 was:—599,395 pounds. That the total volume of fresh pork sold through the Mobile, Alabama branch house for the years 1916 was:—255,094 pounds; that the total volume of
576 smoked meats sold through the Mobile, Alabama branch house for the year 1916 was:—547,624 pounds; that the total volume of dry salt and bacon meats sold through the Mobile, Alabama branch house for the year 1916 was:—485,841 pounds; that the total volume of pure lard sold through the Mobile, Alabama branch house for the year 1916 was:—222,576 pounds. That the total volume of fresh pork sold through the Pensacola, Florida branch house during the year 1916, was:—121,306; that the total volume of smoked meats sold through the Pensacola, Florida branch house during the year 1916 was:—578,370 pounds; that the total volume of dry salt and bacon meats sold through the Pensacola, Florida branch house during the year 1916 was:—692,899 pounds;

that the total volume of pure lard sold through the Pensacola, Florida branch during the year 1916 was: 101,121 pounds.

577 C. B. McENTIRE called as a witness for the Commission at Birmingham, Alabama, on March 10, 1921, after having been first duly sworn testified in substance as follows:

(pp. 873-877)

That he was engaged in the retail meat business in the city of Birmingham, handling beef, pork, veal mutton and all lines of meats, fresh, smoked and salted; that from time to time for eight or ten years he had purchased fresh and cured pork and beef products from Swift & Co., including period from September, 1916, to the end of July, 1917; that during the time that E. P. Allen had account with the Andalusia Packing Company, he purchased fresh pork, loins, shoulder, ribs, hams and some cured meats from E. P. Allen & Co., that had been packed by the Andalusia Packing Company; that he purchased about $300.00 of such products from E. P. Allen & Co. during that period of time; that he bought such products from E. P. Allen & Co., as long as that concern handled the Andalusia account, and that after he could not buy those products from that concern any more he purchased some from Swift & Co. and others.

578 (Witness excused)

EDMUND N. WOOD called as a witness, being first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Taylor.

579 Q. What is your full name, Mr. Wood?
A. Edmund N. Wood.
Q. Where do you live?
A. I live at Woodlawn.
Q. Birmingham?
A. Birmingham. Woodlawn, Woodlawn station, 5312 Third Avenue north.
Q. What business are you in?
A. Brokerage, merchandise brokerage.
Q. Does that cover meats?

A. Yes sir.

Q. Go back to January, 1917. What business were you in at that time?

A. I was in the brokerage business.

Q. Did you have an account about that time for the Moultrie Packing Company?

A. I secured it in January, 1917, secured the account for the sale of their goods in this district.

Q. All of their goods?

A. All of their goods; fresh meats, cured meats, and everything they packed.

Q. Now, did you make sales of any goods during the month of January, 1917?

580 A. I did.

Q. Can you state to what amount?

A. I could not state the amount, the tonnage, nor the probable amount of the sales; the only record I have is the profits earned on the sales, to be two per cent, and that in January amounted to, January sales were, profits from Moultrie amounted to $6.96. Now, I would have to figure to see what amount.

Q. Now, that was two per cent of the selling price of the Moultrie goods?

A. Yes sir.

Q. Did you say—that was what you sold during the month of January, is that correct?

A. That is correct.

Q. Have you made a search for your records showing the total and kind of meats that you sold?

A. No sir, I have no record of that?

Q. I say, have you made a search for your records?

A. Yes sir, I have searched all my papers through, all my files. In moving our business from the one at that time —I moved my office twice, and the last time the files were carried back in some old rubbish, and I had not had time to hunt them up, and they were destroyed without my knowledge.

581 Q. And that included the papers and records of the amount of meats and kinds of meats that you sold for the Moultrie Packing Company?

A. Yes sir, they were in those files that were destroyed, giving the total and the amount of sales; and then monthly they rendered me a statement of the total amount, total amount of sales, and paid me my commission.

Q. And those statements are what were destroyed?

A. Yes sir.

Q. Now, these accounts—these records—this record that you have before you, what is that?

A. The record that I have before me is the profits earned from brokerage from my different accounts, various accounts, including the Moultrie Packing Company, what they paid me.

Q. And these records are in a book?

A. Yes sir.

Q. And were these entries here made by you?

A. They were.

Q. When?

A. At the time the check was received for my brokerage.

Q. Do you know that they were correct at the time that they were made?

582 A. Yes sir.

Q. Do you know that they were correct at the time they were made?

A. Yes sir, I do.

Q. Now, turn to the month of February, 1917, can you state what your brokerage was on the sale of Moultrie products for that month?

Mr. Horton: Just a minute; let me get my objection in; we object on the ground that is not within the issues in this case; on the ground that is immaterial, it is incompetent, and that it is secondary evidence.

Examiner Sadler: The objections will be noted.

Mr. Horton: And may it be understood that my objection continues to this entire line of testimony?

Examiner Sadler: Yes.

A. $38.68.

Q. (By Mr. Taylor): Now, take the month of March, 1917, what was your brokerage during that month?

A. March?

Q. Yes?

A. $92.62.

Q. 62 or 69?

583 A. 69 cents, beg pardon; $92.69.

Q. That is on the Moultrie products?

A. Yes sir, the amount on the Moultrie products.

Q. Well, at the same rate of percentage, two per cent?

A. Two per cent.

Q. Two per cent of the sales price of the product?

A. I believe two. They were paying me two and a half per cent, Jones & Lamb, another provision account, paid two,

but I think Moultrie paid me two and a half, I am pretty sure they did.

Q. Would two and a half be the considered per cent, then, as to January and February sales, March?

A. Yes sir.

Q. And all of the months that you name hereafter?

A. Yes sir.

Q. Now, turn to the book, the month of April, what was your commission on Moultrie products that month?

A. $194.53.

Q. And the month of May, 1917?

A. $185.86.

Q. And the month of June, the same year?

A. $116.33.

584 Q. And the month of July?

A. $36.12.

Q. And the month of August?

A. $11.82.

Q. And the month of September?

A. $5.66.

Q. And the month of October?

A. $44.12.

Q. And the month of November?

A. Well, we closed out, that is, they stopped my sales after October; I had notice from them that they had disposed of the account, and that I was not to represent them any more.

Q. Have you got that notice?

A. No sir, that was lost in my files. It occurs to me that I had two letters from them; I think I had one in July, stating that they were—something to the effect that they were about to close out their business to Swift & Company, and at that time my sales began to drop off, you know, could not get the goods from them, that is the reason there is a falling off in my sales.

Q. Do you mean by saying that your sales fell off that you could not make sales of goods?

585 A. Didnt have the goods. Reported that they could not supply me with the goods.

Q. Well, could you get—

A. I did get the orders, but I could not get the goods.

Q. And what did you do with the orders when you got them?

A. The orders I turned in to Moultrie Packing Company.

Q. Were any of your orders unfilled?

A. They notified me that a lot of the orders, that they

didnt have the certain kinds of goods that I had sold; hence they could not accept or fill the orders; they only filled such orders as they had goods already on hand; they quit buying goods, and didnt have it on hand.

Q. Well, that is hardly responsive.

Mr. Horton: I move to strike it out.

Mr. Taylor: Yes, that is not responsive to anything I asked.

Mr. Horton: It is agreed that it is sticken?

Examiner Sadler: Do you want it physically stricken?

Mr. Horton: I want it stricken; move it be stricken.

Mr. Taylor: I consent to have it stricken.

Examiner Sadler: The motion to strike will be sustained.

Q. (By Mr. Taylor): Now, can you remember when it was you got this second letter that you spoke of?

586 A. I think as well as I remember the second letter was in September or October; that they had closed out to Swift & Company; hence they would not need my services any more, something to that effect.

Q. Do you know how much meat products from the Moultrie Packing Company were being placed in the market at that time?

A. You mean after—

Q. Just about the time—do you know who was selling them?

A. Yes sir, I know who had the account, Swift & Company. I made application to Swift to continue the sales of the Moultrie products, and they replied to me that they would dispose of them, or would sell them through their local plant.

Q. When was it you made that application?

A. Either October, some time in October, or the first of November.

Q. That was about the time when you were unable to get goods from Moultrie any longer?

A. At the time that they—that Moultrie notified me that they had been absorbed by Swift & Company; then I made application to Swift for the account.

Q. Do you recall who it was you saw and where you saw him?

A. Sir?

587 Q. Do you know, do you recall now who it was you saw representing Swift & Company, where it was you saw him?

A. No sir, I wrote a letter to Swift at Chicago, and then I talked with Mr. White, the manager for Swift.

Q. Here in Birmingham?
A. Local manager in Birmingham.
Q. When did you have this conversation with Mr. White?
A. It was some time in November, you know, I could not remember.
Q. Was it after you wrote the letter or before?
A. Yes sir.
Q. After you wrote the letter?
A. Yes sir.
Q. Did you receive a reply to the letter?
A. Yes sir. Did I receive a reply to my letter?
Q. Yes, to the letter that you wrote Swift & Company in Chicago?
A. Yes sir.
Q. Have you got that reply?
A. No sir, that was lost in the same lot of files that was destroyed in moving.
Q. Well, now, do you remember what that reply said?
588 Mr. Horton: I object to that as not being the best evidence, and also being immaterial.
Mr. Taylor: It is the best evidence if the letter itself is not in existence, Mr. Examiner.
Mr. Horton: Copies of it may be in existence.
Q. (By Mr. Taylor): Have you got any copies of that letter?
A. No.
Q. Did you ever make a copy of it?
A. Yes sir. Copy that I wrote him.
Q. Yes, but of the letter that they wrote to you?
A. Oh, no sir, not of that.
Examiner Sadler: The objections will be noted.
A. I filed it; put it in my files with the copy of the letters I wrote them.
Q. Now, what did that letter contain, as you can best recall at the present time?
A. It said that they notified me that we regret that we can not comply with your request, but we will—something to that effect—we will sell the products through our local plant at Birmingham.
Q. Was there a pretty good demand for the Moultrie products at the time you had them?
589 A. Yes sir.
Q. At the time you had the brokerage account?
A. Yes sir.
Q. Right up to the end?

A. Right up to the day I stopped, there was a big demand; the goods were not fancy; they were good and cheap.

Q. What class of trade did you sell them to?

A. Sold them to the best retail trade; I sold a few cars of stuff that I did not get, of fresh stuff, to the jobbing trade, especially one car, I can remember, of lard, that I sold Mr. Allen, I sold him two cars, E. P. Allen, that I did not get, and I sold Swift two cars of beef that I did not get.

Q. When was this you sold Swift the beef?

A. I sold him one car in April, and I sold him another one in May.

Q. Of 1917?

A. Yes sir.

Mr. Horton: I object to all that testimony and move that it be stricken out; it is apparent that the witness did not make sales, but that he merely took orders.

Mr. Taylor: Yes, we recognize the fact that it was merely orders.

590 Examiner Sadler: The objection will be noted, and the motion to strike will be noted.

Mr. Taylor: You can cross-examine.

Cross-Examination by Mr. Horton.

Q. Did you have a contract in writing with the Moultrie plant?

A. Sir?

Q. Did you have a contract in writing with the Moultrie plant?

A. I only had letters from them, giving me the account in Birmingham for the sale of their products; we had no written agreement outside of the letters; I made application by letter and they replied and gave me the account.

Q. There was not any time stated in that letter, was there, for which the account was to continue?

A. No sir.

Mr. Horton: That is all.

Mr. Taylor: That is all.

Examiner Sadler: The witness will be excused.

(Witness excused; but later recalled by Mr. Horton for further cross-examination)

591 Mr. Horton: If there is no objection, I would like to bring out the fact that he represented some of these other packers in a brief way.

Mr. Taylor: There is no objection, but I am inclined to

think that he really did say that; that is the understanding that I got.

Q. (By Mr. Horton): In February, 1917, did you represent any other packers?

A. Yes sir, represented Jones & Lamb Company, Ferris & Company of New York.

Q. Anybody else?

A. No sir, no other packer; for other goods there I was.

Q. And did that representation continue through January, February, March, April, May, June, July, September, August, November?

A. With who?

Q. With Jones & Lamb and Ferris & Company?

A. Yes sir.

Q. You were representing them at the same time you were representing Moultrie?

A. Yes sir, represented them longer than I did Moultrie; represented Ferris for ten years before.

Mr. Horton: That is all.

Examiner Sadler: The witness will be excused.

(Witness excused)

592 After Recess.

T. E. HENDERSON called as a witness, having been first duly sworn, testified as follows:

Examiner Sadler: I believe your initials are T. A., arent they?

A. T. E.

Examiner Sadler: T. E?

A. Yes sir.

Examiner Sadler: Andalusia?

A. Yes sir.

Q. (By Mr. Taylor): Where do you reside, Mr. Henderson?

A. Sir?

Q. Where do you reside?

A. Andalusia, Alabama.

Q. What is your business?

A. Banking.

Q. Were you at any time ever connected with the Andalusia Packing Company?

A. Yes sir.

Q. In what capacity?

593 A. President.

Q. In effect you were one of the organizers of the company, were you not?

A. Yes sir.

Q. Will you please state which—just state very briefly the circumstances surrounding the organization of the Andalusia Packing Company?

A. The war came on in 1914 and reduced prices of all agricultural products in our country to such a point that our people could not pay us, the banks and merchants and their creditors; we had heavy obligations, directly and indirectly; the boll weevil had made his first appearance—in a very limited way, however, in 1914; in 1915 in a very heavy way, and it was for the purpose of finding some other endeavor that a farmer could engage in by which he could pay his obligations that we decided to establish a packing plant, that he might grow hogs and sell them and realize some money from that source. As an illustration, I might say that normally cotton receipts in our town—in 1915—1914, first, were approximately 14,000 bales. In 1915 we had been reduced to about 2,000 bales, and it was a matter of life and death with us, financially, to find some line of endeavor, some pur-

594 suit that the farmer might follow that he could make a livelihood and live and pay his debts. Generally speaking, I would say that that was the cause of the building of this plant.

Q. I believe you said that you were one of the organizers of the corporation?

A. Yes sir.

Q. And were there a great many other subscribers and parties interested in the organization of it?

A. Some hundred and seventy-five to two hundred, I dont remember just how many; a large number of people.

Q. Who subscribed for stock?

A. Yes sir.

Q. Do you recognize this book which I hand you?

A. It seems to be the minute book of the Andalusia Packing Company; my signature is here somewhere; I saw it a few minutes ago, as approving the minutes as president.

Q. You have no doubt about its being the minute book?

A. I would not doubt it being the minute book; that is my signature there; that is mine.

Q. Signature as president?

A. As president.

Q. Signed at the end of the minutes?

595 A. Yes sir, that is mine; that is Mr. Darling's.

Mr. Taylor: The book which has just been identified by the witness as the minute book of the Andalusia Packing Company is the book that was marked "B" for identification" on February 9, 1921, at Chicago.

Q. Did you state about how many stockholders and subscribers there were to the certificate of incorporation?

A. I cannot remember at this time; there was probably one hundred and seventy-five or two hundred, more or less; there might have been more than two hundred or less than one hundred and seventy-five, but it was a very large number.

Q. Do the names appear here in the minute book, showing those stockholders and subscribers?

A. Well, I would assume so; I have got a list of the stockholders in my file here; all these people were stockholders in the packing house, in the packing company, that I see the names of.

Q. Now, about when did the corporation commence doing business?

A. The best I remember the corporation was organized in 1915, sometime the latter part of 1915; that is just a matter of off-hand recollection there. That is about right.

596 Q. What was that date?

A. The 8th day of October, 1915.

Q. Now, how soon after that did the corporation get to doing business?

A. Well, we began immediately to purchase equipment and make contracts for the buildings and machinery, and things of that kind.

Q. And when did you commence to purchase stock, hogs and stock to kill, if you can recall?

A. The best I remember it was in June, 1916, possibly in May; a few in May, either May or June, 1916.

Q. And will your records show about how many were purchased and killed, the records of the company?

A. For what length of time?

Q. Oh, beginning from June, about how the increase was?

A. Yes sir, the books ought to show; I didnt have anything to do with keeping the books at all.

Q. Did you have anything to do with the purchase of the stock?

A. Yes, I did.

Q. Did you know personally—

A. Yes sir.

597 Q. Can you state generally about how many were purchased and about how many slaughtered, how much slaughtering was done?

A. Well, to begin with, it was rather small; through the winter we had a good many, bought a great many hogs; then the spring and summer of 1917 it diminished considerably; I just cannot say as to the probably amount, what it would be, I know it took lots of money to pay for them.

Q. Can you state off hand about how much you were buying a month in the winter of 1916, '16 and '17, along in December December, and January and February and March of 1917, that was the heavy season, was it not?

A. That was about the heavy season.

Q. About how much a month was expended, if you recall —well, I withdraw that question, at least for the present. It is your recollection, is it not, that there was a large volume of hogs and cattle being slaughtered during the three months I just mentioned, December, 1916, January and February, 1917?

A. That is true as to hogs, but not true as to cattle; we did not buy very many cattle.

Q. Now, what did the corporation purchase at that time, taking it from the standpoint of the character of meat
598 which was produced, turned out, rather the kinds of meat which was turned out?

A. You mean different kinds?

Q. Yes.

A. Dry salt meats.

Q. Yes.

A. Sweet pickled meats, smoked meats, fresh meats, of all different cuts of the hog. Of course I dont suppose it is necessary to go into the different cuts of the hog?

Q. No.

A. Fresh meats, dry salt meats, and smoked meats.

Q. And hog trimmings, did you have trimmings?

A. Yes sir.

Q. Pig tails, ears, all that sort of thing?

A. Yes sir. Then the inedible department; tankage department.

Q. And what was the selling organization of the Andalusia Packing Company?

A. The selling organization consisted of probably three or four brokerage houses, together with, I think, two or three men that we traveled, together with our office salesmen.

Q. These brokerage houses J. W. Clark and Company,
599 of Atlanta, one?

A. Yes.

Q. One was E. P. Allen of this town?

A. Birmingham.

Q. Birmingham. Do you recal lany other broker?

A. We had one at Norfolk, Virginia, Oliver Wynn, best I remember; did some business with him; we sold some inedible stuff through some other brokers; I dont remember—I remember the appearance of one of them; he was about as broad as he was high; that we sold some grease too, sometimes.

Q. Where was he located?

A. I cannot remember. And we sold a car of pigs, I believe, to Libby, McNeil & Libby, of Chicago, through Taylor Brothers, brokers, that is one transaction, as well as I remember.

Q. Where are Taylor Brothers located?

A. Chicago.

Q. Did you sell anything in New York, as far as you can recall—well, I will withdraw that question; the books will show that better.

A. Yes.

Q. Now, going to the salesmen; who were they and what territory did they cover?

600 A. You mean out of the office?

Q. Yes, out of the office of the Andalusia Packing Company.

A. I cannot remember the names now, who represented us.

Q. Do you remember just how many of them there were?

A. I think we had two; and then we had selling arrangements with the Sessoms Grocery Company of Andalusia, who traveled two men, and they sold our products in connection with theirs.

Q. Take your own agents, what territory did they canvass?

A. They covered a territory south of Montgomery, and north of Mobile; they did not go into Pensacola; they did include Troy and Dothan, Brundage, Ozark, Greenville, Evergreen, Century, Florida, and a limited territory in our own section.

Q. Dd you sell much in Pensacola?

A. We might have—we sold probably a little stuff in Pensacola, not much.

Q. Now, take the Sessons Grocery Company of Andalusia;

do you know what territory was canvassed by their salesmen?

A. Their territory was from Andalusia to Graceville, Florida, and from—

Q. What railroad was that on?

A. L. & N. And from Chipla Florida, back to Cressview, Florida, I believe, was about the territory they covered, 601 small territory.

Q. Now, coming down to June, 1917, do you recall the first meeting you had with anyone representing Swift & Company?

A. Yes sir.

Q. Will you please state the time and circumstances of that meeting?

A. Well, the exact date I could not give you, it was the latter part of May or early June, was the first time I ever saw anyone or talked with anyone.

Q. And who was it you talked with then?

A. I talked with Mr. Hunter and Mr. Carr, H. C. Carr, I dont know Mr. Hunter's initials.

Q. Well, will you please state the exact circumstances of your meeting with Mr. Hunter and Mr. Carr?

A. I got on the train at Montgomery one morning to go to Andalusia, and went up in the smoker; there were two other gentlemen sitting up there; I read my paper, and they were carrying on a conversation; I never found out what, didnt pay any attention to it, did not listen. About the time or beyond Red Devil, about fourteen miles this side of Andalusia, one of these gentlemen got up out of his seat and came back to where I was sitting. He asked if this was Mr. 602 Henderson; I told him I was; he asked if I was from Andalusia; I told him I was; he asked if I was connected with the Andaluisia Packing Company, if I was the Mr. Henderson who was connected with the Andalusia Packing Company; I told him I was; he introduced himself; said he and his friend up there were going to Andalusia to pay us a visit, which had been their custom.

Q. It was their custom to pay you a visit?

A. That was their general custom, to go around and visit all the different packing houses; all the other packers had had representatives there from time to time. I think all of them had been represented there; I paid very little attention to it. And we talked about the packing industry and the country generally on to Andalusia. We got to Andalusia, and I suggested to them that if they—that they might

want to leave their baggage at the hotel, and that if they would kindly come up to the bank I would be glad to drive them out to the bank—out to the packing house, I mean; that I would like to drop by the bank to see if there was anything important there that needed my attention. They came on up to the bank in probably three or four minutes, and they rode out to the plant. They looked it over, and came on back to the bank; it was lunch hour; my wife was waiting for me,

603 and I suggested to them that if they felt like it, to drop back after their lunch and spend the time until their train left. They did not indicate whether they would or would not, but they did come back after lunch, and we talked; had quite a long conversation about the packing business, and the ultimate growth of the hog industry in our section, territory which we covered, the probably number of hogs that would ultimately be grown; all those different questions, just along—I dont remember all that was said, quite a good deal during the conversation, however. Mr. Hunter asked me if we wanted to sell our plant. I told him that we had never thought about it, that we had never tried to sell it to anybody, that I anticipated that we might have trouble with some of our stockholders if we did want to sell or undertook to sell, but personally I had never had anything that I would not sell, provided it was agreeable to all the others. The conversation turned then to something else for a little while, and finally Mr. Hunter suggested that if we did decide to sell our plant to write Mr. Carr in Chicago. I told him that let's put it this way "If you gentlemen take a notion that you want to buy this plant you let me know," and the conversation stopped right there at that time.

604 Q. Now, in the course of this conversation about the hog condition in Alabama, the number that were being produced at that time, and the probably future of it, you made no representations that were not justified by the facts, did you?

A. No sir.

Q. And made no prophecies that you did not feel you were safe in making?

A. No sir, none that I know of.

Q. Now, did you hear from Mr. Carr later on?

A. Yes.

Q. When was that?

A. Probably in ten days to two weeks; it might have been as long as three weeks; I have no distinct recollection.

Q. In what way was it?

A. Wrote me a letter.
Q. Have you the letter with you?
A. No sir, I have not; I have not been able to find it.
Q. Do you recall what he said?
A. Well, he approached the subject by stating that—of course, this is just recollection—that if we wanted to sell our plant they would be glad to hear from us, or words to that effect; I dont know what was in the letter; I have not
605 got the letter; I dont know where it is, didnt pay much attention to it.
Q. You tried to find it, though, before coming here?
A. Yes sir.
Q. Now, did you reply to that?
A. Yes sir.
Q. Have you the reply?
A. That I made to his letter?
Q. Yes?
A. Yes sir.
Q. Is this the reply which you now hand me?
A. Yes sir.
Q. And this is a telegram?
A. Yes sir.
Q. Why did you answer by telegram?
A. On the assumption, I suppose, that his letter asked me to wire; not having the letter, I could not say why, as to that.
Q. What is your recollection with regard to the letter, in that respect?
A. My recollection would be that he asked me to telegraph him if we wished to dispose of the plant.
Q. Now, will you please read that telegram into the record?
606 A. "Andalusia Alabama, June 5, 1917, H. C. Carr, Union Stock Yards, Chicago, Illinois. Replying to your letter of the 1st, if will send representative your firm properly identified here this week will discuss matter with him in full. Signed T. E. Henderson."
Q. Now, did you receive a reply to that telegram?
A. Yes sir.
Q. Have you the reply with you?
A. Yes sir, received the reply the following day.
Q. Now, in lieu of offering the telegram in evidence, I will ask that it be read into the record; please read the telegram?
A. "Union Stock Yards, Illinois, June 6, 1917; 2:27 P. M. T. E. Henderson, Andalusia, Alabama, Will be Andalusia

Friday, June 8th on arrival morning train from Montgomery; wire reply to Chicago quick if agreeable you meet me your office Friday." Signed "H. C. Carr" Received at Andalusia 3:44 P. M.

Q. Did you reply?

A. I did.

Q. In what way?

A. "Andalusia, Alabama, June 6, 1917. H. C. Carr, Union Stock Yards, Chicago, Illinois. Will see you in my
607 office Friday morning the eighth." Signed, "T. E. Henderson."

Q. That was by telegraph?

A. Yes sir.

Q. What happened next in connection with this same matter, Mr. Henderson?

A. He came to Andalusia on Friday the eighth on the morning train, and left on the afternoon train.

Q. While he was there what happened, what conversation?

A. We went into extended conversation with regard to the plant; Mr. Darling being present. The final result of it was that we gave him an option, that is, we called it an option, it was not an option in a way; it was not binding; I have it here, copy of it.

Q. Who is Mr. Henderson whose name you have mentioned—who is Mr. Darling, whose name you have mentioned, Mr. Henderson?

A. Mr. Darling is president of the Sessons Grocery Company at Andalusia. He was a stockholder in the packing company, one of our largest stockholders, and a man that I conversed with freely about the affairs of the company, from time to time.

Q. Now, have you the option with you?

A. Yes sir.

Q. Which you referred to?

608 A. Yes sir, that is a copy of it.

Q. I see.

Mr. Taylor: I offer in evidence the option. In doing so, I ask your consent that the copy be substituted for the original?

The Witness: The original signed option is in the hands—we have not got it; this is a copy of the option that we gave.

Mr. Horton: We object to the introduction of the option, not upon the ground that it is a copy, but upon the ground that it is incompetent, irrelevant and immaterial, and not within the issues in this case.

Examiner Sadler: The objections will be noted; the option will be received in evidence and marked "Commission's Exhibit No. 111."

(The paper was received in evidence and marked "Commission's Exhibit No. 111, Witness Henderson, March 11, 1921.")

Q. (By Mr. Taylor): Now, Mr. Henderson, I see the last paragraph of the option refers to acquiring the remaining shares of the stock, and provides that the option shall not be binding upon you and Mr. Darling unless you are able so to do; will you please explain what that provision was inserted for? Whether any conversation was had with re-
609 gard to the insertion of that paragraph?

A. Well, the understanding was that if we sold these shares of capital stock to him, that we would deliver all the share of the stock, and while Mr. Darling and me were willing to sell our shares of stock at the price named; we were not willing to sell them at any price unless it was perfectly satisfactory with all the remaining stockholders to sell their stock at the same price.

Q. Well, now, did it subsequently develop that it was satisfactory to all of the remaining stockholders to sell their stock?

A. Yes.

Q. Was the stock sold at the price named in the option, $75 a share?

A. No, it was sold at $70 a share.

Q. At $70 a share. And turned over by all of the stockholders?

A. Yes sir.

Q. Were you personally present at the time the stock was delivered?

A. Yes sir.

610 Q. Where was that stock delivered?

A. Chicago.

Q. That is, the certificates?

A. Delivered in Chicago?

Q. Will you please describe the manner in which the certificates were gotten together and taken to Chicago and delivered there, if within your personal knowledge?

A. Well, as stated before, the sale resulted in the stock at $70 a share, and it took me some week or ten days possibly, to get all this stock together. It was assigned in blank to me and delivered to me in person by the various stockholders, and Mr. Darling and I made a trip to Chicago to make personal

delivery of the stock, in order that we might sign the new certificates that would necessarily have to be issued to new officers and stockholders, new stockholders.

A. At this time you were president of the company?

A. Yes sir.

Q. And Mr. Darling what?

A. Secretary.

Q. Now, when was this you went down to Chicago with all of this stock?

A. July 24, 1917, was the day we were there.

611 Q. You had the certificates of stock all there at that time?

A. Yes sir.

Q. All assigned in blank?

A. Yes sir.

Q. And did you deliver them?

A. Yes sir.

Q. To whom?

A. To point out the party personally that I made delivery to, I could not do that; there was several at the table, and we delivered the stock over the table to those there, but I could not say who picked them up.

Q. Where was this meeting place?

A. At Swift & Company's office in Chicago, their directors' room, I believe.

Q. At the stock yards?

A. Yes sir.

Q. At the Union Stock Yards in Chicago?

A. Yes sir.

Q. And can you state who was present at that time?

A. Mr. Peacock was present.

Q. Mr. Peacock, the present secretary of the Andalusia Packing Company?

612 A. I dont know whether he was or not; I think he was elected secretary that day, but I dont know whether he is now or not.

Q. Mr. C. A. Peacock, you mean?

A. Yes sir; Mr. H. C. Carr was present, so was G. H. Ingwerson and Mr. L. A. Carton was present, might have been somebody else, present, but I dont recall.

Q. Now, were new certificates issued on that day, Mr. Henderson?

A. Yes sir.

Q. And do you recall to whom they were issued?

A. I have a record here of to whom they were issued;

I assume it to be the record. T. E. Henderson, 100 shares, T. H. Ingwerson, 820 shares; G. D. G. Rogers, he was not present, a hundred; H. C. Carr, 820 shares; W. B. Taynor, 825 shares; total 2625 shares.

Q. That was the total outstanding capital stock of the Andalusia Packing Company at that time?

A. Yes sir.

Q. Now, I see a hundred shares issued to you; will you explain the circumstances under which they were issued to you, whether you were the beneficial owner or not?

A. After the details were all completed, and the stock
613 ready to be issued, Mr. Carr himself, I think, made the special request that I remain a director of the Andalusia Packing Company, and take the position of vice-president, in order that they would not lose the personnel of the organization, as it had been heretofore operated; that we could render them excellent service by the connection; they wanted our cooperation and aid, and to operate the plant as nearly as possible along the same lines as it had been operated under our own management, and for that reason I consented to have some stock issued to me personally.

Q. Was it stated by your or by Mr. Carr or by anybody that it would be necessary for stock to stand in your name to enable you to remain a director?

A. I made the statement myself that I was selling all of my stock, that I would not own any stock, and that I could not be a director nor an officer in that position. They suggested that they would issue the stock to me, and I replied by saying in that event I will assign the stock back to you, as I did not want any stock, did not want to buy any stock.

Q. Was there anything said about the number of shares?

A. No suggestion made as to the number of shares; they just wrote out the certificate for a hundred shares and
614 gave it to me; I signed it in blank and handed it back to them.

Q. Do you remember who you handed it back to?

A. No sir, I dont remember who wrote it or who I handed it back to; there was several around the table; it was impossible for me to remember that.

Q. Now, I call your attention to page 135 of the minute book, which shows the holding of a meeting, a special meeting of the board of directors of the Andalusia Packing Company at the northeast corner of Exchange and Packers Avenue, Chicago, Illinois on the 24th day of July, 1917, at four o'clock in the afternoon, at which there was present T. E. Henderson,

T. H. Ingwerson, H. C. Carr, and W. B. Traynor; do you recall if that meeting was held while you were there?

A. Why, I think the meeting was held.

Q. Do you recall at that meeting whether you resigned as president, and whether you were elected to another position?

A. Yes sir, I had the written resignation of all the directors and officers of the Andalusia Packing Company with me on that occasion.

Q. And did you tender them?

A. Yes sir.

Q. As shown by the minutes?

615 A. Yes sir.

Q. And were they accepted?

A. Yes sir.

Q. And you were elected then as vice-president of the company?

A. Yes sir.

Q. Now, I call your attention to page 138 of the minute book, and I will ask you to look that over and state if you recall such a meeting being held and being present?

A. Yes sir, it is my recollection that this meeting was held all right; I have got no record of it, you understand, at all.

Q. But you remember being present at such a meeting of the stockholders?

A. Yes sir.

Q. Now, turning to the last page of the meeting, you will see that there were resignations presented there of certain directors or former directors of the Andalusia Packing Company. I will ask you to read over that list and state whether or not that was all of the directors of the Andalusia Packing Company excepting yourself, at that time?

A. So far as I remember this is all of them; I dont remember.

Q. And then follows a motion, which was carried, elect-

616 ing T. H. Ingwerson, G. D. Rogers, H. C. Carr, and W. B. Traynor directors to fill vacancies created?

A. Yes sir.

Q. And that left yourself and these other four men all of the directors of the corporation at that time?

A. Yes sir.

Q. Is that your recollection, Mr. Henderson? Now, do you recall at the present time how long you remained vice-presi-

dent of the Andalusia Packing Company and a director of that corporation?

A. No, I cannot recall; it is not very long.

Q. Have you ever ceased to be vice-president or director of the corporation?

A. Well, I had a notice to attend a meeting of the directors to be held in Chicago at a certain time, a special meeting, that I did not attend; what was done at that time I do not know.

Q. Do you recall when that was?

A. It was in 1918, I think, some time, early in 1918, that is the recollection I have, nothing on it except recollection.

Mr. Taylor: I might state the last record in the minute book shows a special meeting of the board of directors
617 of the Andalusia Packing Company held on June 29th, 1918, at Chicago, which meeting appears as Number 49 in this proceeding. Have you ever received any notice that you had ceased to be a director or vice-president of this corporation?

A. None that I remember.

Q. Mr. Henderson, I show you Exhibit No. 17, Commission's Exhibit No. 17, and ask you to look at that and state whether or not you recognize that as a copy of a letter received by you?

A. Yes, I received that letter.

Q. And that is a letter from H. C. Carr to Mr. H. E. Henderson, dated June 28th, 1917?

A. Yes sir.

Q. I know. Now I show you Exhibit 18, which is a copy of a letter from T. E. Henderson to H. C. Carr, Union Stock Yards, dated July 2, 1917; I will ask you if you recognize that as a copy of a letter which you wrote to Mr. Carr?

A. It seems to be a copy, yes sir, of a letter that I wrote him.

Q. You remember writing that letter?

A. Yes sir.

Q. I now show you Commission's Exhibit 20, copy of
618 a letter from H. C. Carr to T. E. Henderson, dated July 9, 1917, and ask you if you recognize that as a copy of a letter which you received from Mr. Carr?

A. Yes sir.

Q. I see that that letter states that Mr. Matthies will go to Andalusia again to check up outstanding accounts. Do you recall that Mr. Matthies had previously been to Andalusia?

A. Yes sir, he was down there in June.

Q. What time in June, if you can recall?

A. Well, let me see; I think I can verify that; I should judge about the 18th of June.

Q. About when?

A. About the 18th of June, that he arrived there.

Q. You do not recall what he did on that occasion?

A. He wanted to verify the books and check up the inventory and generally to make an examination as to verify the statement of the assets that we had stated that we had, liabilities and so forth.

Q. In what form did you make a statement of what you had?

A. Well, we furnished them, the best I remember, a copy of our May 1st statement as to assets and liabilities.

Q. And he had that statement before him when he
619 checked over your assets?

A. Let me get that correct—I am not sure that he had a statement of the assets and liabilities; he had this statement here, I think, covering our fixed assets, building and equipment and it is very likely that he had a statement also that he—that we made up May 1st, 1917.

Q. Have you the statement of May 1st, 1917?

A. Yes sir.

Q. And did you have this statement when Mr. Matthies was first there?

A. Yes sir.

Q. Did you have any conversation with Mr. Matthies at that time as to what you had there in the way of stock on hand?

A. Well, we went over the entire stock, the entire matter of the stock on hand with him, and had him to verify our book figures on the stock.

Q. Did you give him all the infomration that you were able to at that time?

A. Yes sir.

Q. He asked you for all that you had?

A. Yes sir.

620 Q. All that was available?

A. Yes sir. What I mean by book statement was that this was a complete inventory statement made up by ourselves before any negotiations were ever entered into, at any time, and without any knowledge on our part that we would ever sell the plant, and of course, after May 1st, these negotiations began; what I mean by book statement was, he would take the

killing as a debit and the sales as a credit to ascertain the amount of stuff that he had on hand at his visit there.

Q. And by this you mean the statement of May 1st, 1917?

A. Yes sir.

Mr. Taylor: I offer in evidence the statement of May 1st, 1917.

Mr. Horton: We object to the exhibit for the reason that the exhibit was made long before the respondent had anything to do with this packing plant, and long before negotiations were opened, and should not be received as evidence against the respondent; and it is incompetent, immaterial and irrelevant, to the issues.

Examiner Sadler: The objections will be noted, and the statement will be received as evidence, and marked Commission's Exhibit No. 112.

621 (And thereupon the paper was received in evidence and marked "Commission's Exhibit No. 112, Witness Henderson, March 11, 1921")

Examiner Sadler: Recess until 1:30.

(Whereupon, at 12:30 P. M. Friday, March 11, 1921, the hearing adjourned until 1:30 P. M. of the same day.)

After Recess 1:40 P. M.

Examiner Sadler: The hearing will come to order.

Q. (By Mr. Taylor): Now, Mr. Henderson, in referring again to this statement of May 1st, 1917, Exhibit No. 112, did that state the true facts as far as you understand them, at the time it was made up?

A. Yes sir. The statement shows accounts payable, $42,349 07; $36,747.88 of this amount represents money borrowed, but it is not covered by note, the amount simply standing to the credit of the two parties to whom we owed the money. That would reduce that down to a little over five thousand dollars.

Q. Still that amount, borrowed amount, is an account payable?

A. Yes.

Q. So that the statement really is correct, with that explanation?

622 A. It did not represent stuff bought and unpaid for; it is money borrowed.

Q. Money borrowed instead of goods bought?

A. Yes sir.

Q. Now, did you have any further statements or information as far as you know, as far as you can now recall, at

the time Mr. Matthies first came to Andalusia, to check over the property and assets?

A. At the time he first came there?

Q. Yes.

A. Nothing except our books and records in the office, as far as I remember.

Q. I call your attention again to this letter of July 9, 1917, written by H. C. Carr to yourself, Exhibit No. 20, and the sentence, or rather, paragraph "Will have the representative check meats and stock as to condition." Was that done?

A. Yes sir.

Q. Now, the next paragraph reads "In regard to any liabilities not shown on your statement, this, of course, is something that cannot be checked up, and presume that you and your associates would have no objecting to giving a guarantee that there are no liabilities in excess of $250 not shown
623 on your statement." Do you recall what statement it was that that letter referred to?

A. It was a statement from which this statement—made up from this statement, I presume; I dont recall just now any other statement; if there is any other statement I dont remember it. Of course, they had a statement, but I have no copy of it; it was a verification of this, copy of this, I presume, made up, however, in a form similar to—made up similar to this right here; this is just a trial balance statement.

Q. What is the date on this trial balance statement?

A. That is April 30th.

Q. You are simply using this to describe the form?

A. Yes. This statement that he refers to may have been just a form like this, I dont remember.

Q. Or it may have been this statement, Exhibit 112?

A. Yes sir, it may have been that.

Q. But whatever it was, the substance of it would be the same as this statement Exhibit 112?

A. That would be my recollection.

Q. I have in my hands schedule A, which I will ask to be marked for identifidation, Mr. Examiner.

Examiner Sadler: It will be marked A-22 for identification.

624 (The paper referred to was thereupon marked Exhibit A-22 for identification).

Q. (By Mr. Taylor): Mr. Henderson, I call your attention to page 25 of this schedule marked A-22 for identification. Do you recognize that page?

A. Yes sir, I wrote that letter.

Q. That is a letter written by you, under date of October 10, 1917 to Mr. L. L. Bracken, secretary to the Federal Trade Commission?

A. Yes sir, I wrote that letter.

Q. Please look at the preceding page 24 and see if you can recall that the letter written by you at page 25 was in reply to a letter of which page 24 is a carbon copy?

A. I dont remember that I ever saw that letter; I wrote this letter right here, in reply to this section B, addressed to Andalusia Packing Company, September 24th, 1919; I had been out for two months.

Q. You were still vice-president of the corporation—

A. Yes sir.

Q. Were you not, at that time?

A. Yes sir, but I have no recollection of this letter.

Q. And your reply is written—

625 A. October 10th.

Q. Signed "Former president."

A. Yes. "Replying to your letter of recent date, addressed to the Andalusia Packing Company, in regard to the sale of this stock, in which you ask for further information, the reason prompting the sale or transfer"—B, is covered in this original letter, this letter here. I presume I only answered that part of it because that part of it was the only part in which I was called on to reply, having not been connected with the plant since July of the same year.

Q. Do you recall who called that to your attention, and asked you to reply to it?

A. Well, I would judge that Mr. Rogers, who was manager at the time, would probably have called it to my attention; if it was called to my attention in any way—I guess it was.

Q. You are replying to a letter addressed to the Andalusia Packing Company?

A. Yes sir.

Q. Under date of September 24th, are you not?

A. Well, I didnt state the date; "of recent date."

Q. Addressed to the Andalusia Packing Company?

A. Addressed to the Andalusia Packing Company in

626 regard to the sale of this stock, in which you ask for further information, the reason prompting the sale or transfer. That is B. That letter was written up to the bank.

Q. Do you recall now why you didnt reply to A, that is whether the stock or the property or both was purchased by Swift & Company?

A. No, I dont remember about that.

Q. By the way, going back to the time when you delivered the certificates representing the entire stock of the Andalusia Packing Company in Chicago, on the 24th day of July, 1917, did you at that time receive payment for those certificates?

A. Yes sir.

Q. And in what form was that payment?

A. Check.

Q. Drawn by whom?

A. Swift & Company.

Q. Do you recall now where it was payable?

A. Drawn on the Illinois Trust Company, the best I remember.

Q. To whose order was it drawn?

A. Drawn to Trammell E. Henderson, Alphonso C. Darling.

Q. That check was deposited in due course and collected?

A. Yes sir.

627 Q. Now, I call your attention to page 26 of this same schedule A, marked A-22 for identification, I will ask you if you recognize the initials signed to that letter?

A. I would regard that as being the signature of C. B. Colt; C. B. C., he was there at that time.

Q. Who was C. B. Colt at that time?

A. Mr. Colt was connected with the plant after we sold it; I really dont know; Mr. Conner might know.

Q. And the date of that letter is what?

A. The date of the letter is October 9th. In my letter of October 10, 1917, answering paragraph B of Federal Trade Commission's letter of September 24th, after reading letter signed by C. C. B. dated October 9, 1917, it is likely that I was only requested to answer that paragraph, that part of the letter of the 24th of September covered by paragraph B, the reasons prompting the sale and transfer.

Q. C. B. C. is the same C. B. Colt whom you identify as initialing this letter appearing as page 26?

A. This C. B. C. here to all appearances is the initials of C. B. Colt, who was connected with the Andalusia Packing Company at that time, as auditor.

Q. You know the signature of Mr. Colt, do you C. B. C?

628 Well, I am reasonably familiar with it. That looks like the initials as he usually signed them.

Q. Do you recall now that Mr. C. B. Colt showed you this letter of September 24th, from the Federal Trade Commission?

A. I would not say that he did or did not; I do not remember. He evidently showed me the letter.

Q. Now, I call your attention to page 29 of this same exhibit, A-22 for identification. Do you know the signature appearing there?

A. I never saw his signature in my life; never saw him write it in my life; I have probably seen his signature, but I never saw him write it in my life.

Mr. Taylor: Mr. Examiner, I ask that schedule B. which I here present, be marked for identification.

Examiner Sadler: Schedule B will be marked A-23 for identification.

(The paper was thereupon marked Exhibit A-23 for identification).

Q. (By Mr. Taylor): Mr. Henderson, I now call your attention to page 15, as numbered on the lower right hand corner of the schedule B, marked A-23 for identification, and I will ask you if you recognize the signature appearing on that page?

629 A. That is C. B. Colt's signature, the best I know it.

Q. And referring now to page 16 of the same exhibit?

A. Yes.

Q. Do you recognize the initials there?

A. C. B. C. yes.

Q. And that stands for whom?

A. C. B. Colt.

Q. Mr. Henderson, what does the letter which I now show you, what is it?

A. Want me to read it?

Q. No, just state what it is, generally?

A. Well, it is a letter from H. C. Carr in which he states here that Mr. G. D. Rogers expects to be in Andalusia Monday the 16th of July.

Q. You received that letter through the mails from Mr. Carr?

A. Yes.

Q. Now, did Mr. Rogers come to Andalusia?

A. Yes sir.

Q. As was stated the re?

A. Yes sir.

Q. When he arrived there did he present himself as manager of the plant, of the Andalusia plant?

630 A. He didnt present himself as manager at that particular time; subsequently, after we sold, he assumed managership; at this particular time he was only there in the

capacity of going through the business of the concern, along with Mr. Matthies and others that were there getting acquainted with the operating end.

Q. Do you recall about when it was that Mr. Rogers came to Andalusia. It states here that he is expected to be there on July 16th?

A. I presume it was about the 18th or 19th of July that he reached there; of course I have no distinct recollection, about it, except such as that.

Q. This says that he expects to be there on the 16th; is it your recollection that he got there at a later date than that says they expected him to?

A. Well, about the 16th.

Q. And did he take steps to familiarize himself with the plant and property, as the letter requested?

A. He did. We endeavored to comply with the letter, to show him all the courtesy possible, in meeting the people with whom we had business dealings, both buyers and sellers, and otherwise tried to get him as familiar with the business as possible.

631 Mr. Taylor: I offer in evidence the letter just identified by the witness.

Mr. Horton: No objection.

Examiner Sadler: The letter will be received as evidence, and marked Commission's Exhibit No. 113.

(The letter was thereupon received in evidence and marked Commission's Exhibit No. 113, Witness Henderson, March 11th, 1921.)

Q. (By Mr. Taylor): Now, Mr. Henderson, I call your attention to Exhibit 18, particularly to the last paragraph on the third page, in which you state in this connection: "I wish to state that we will require a guarantee from Swift & Company that they will assume to pay all of the obligations representing money borrowed as shown by list of such obligations attached to and made part of the purchase of the stock, and on which a number of our directors and indorsers guaranteed to these indorsers that these notes would be paid when due." Was that done?

A. Swift & Company did not guarantee, but I have in my file there a contract with G. F. Swift, Junior, signed in connection with this.

Q. Do you refer to Exhibit 50, of which this is a copy?

A. This a copy of the one which I have in my file; I

632 assume it is a copy, yes.

Q. Why was it that G. F. Swift, Jr. guaranteed that?

Mr. Horton: I object; it is not material, doesnt make any difference why it was. Mr. Henderson, I dont presume knows the workings of Mr. Swift's mind.

Examiner Sadler: The objection will be noted.

Mr. Taylor: Of course, if Mr. Henderson knows; if he does not know, he is perfectly capable of saying so.

A. I can say that I do not know why it was that G. F. Swift personally signed the contract.

Q. (By Mr. Taylor): Was there any discussion of that question in your presence?

A. No discussion; I was anxious to get the matter closed up and get relief from the burdens that we were under; I was willing to accept it, Mr. Darling and I, with that guarantee, and we took it that way; they offered it to us and we took it.

Q. Mr. Henderson, when you ceased to be president of the Andalusia Packing Company, what became of the letters and files, books and papers of the Andalusia Packing Company?

A. They were left in the office where they were.

Q. Where they had always been, in the office of the Andalusia Packing Company?

633 A. Yes.

Mr. Taylor: You can cross-examine.

Cross-Examination by Mr. Horton.

Q. Now, Mr. Henderson, what was the character of your country down there, with reference to the principal industry, when this plant was started?

A. Cotton had always been our principal industry.

Q. It is primarily farming country, is it?

A. Yes.

Q. There are no important industries there except agricultural pursuits?

A. Agricultural pursuits, and it has always been more or less of a lumber district.

Q. But of late years the lumber has been pretty well cut off, hasnt it?

A. Yes, the lumber has been depleted very rapidly.

Q. And it is a farming country in the cut-over sections, is it not?

A. Yes.

Q. Was it your object to introduce diversified farming?

A. We had that in mind, yes.

634 Q. As I understand it, to have the farmers devote their industry to stock raising, so that if the cotton crop failed, there would be something to fall back on?

A. Well, we foresaw the failure of the cotton crop by reason of the boll weevil, the advent of the boll weevil; we were drowning, we were grasping at anything that came to save ourselves, that is about the best way I can put it; financially we were drowning; we were trying to protect ourselves.

Q. Now, did the packing plant accomplish your purpose?

A. It done a great deal more than we anticipated it would do.

Q. It has been a benefit to the community?

A. Yes, a great benefit.

Q. Does that apply both before and since Swift & Company have owned the plant?

A. Oh, yes, applied since we built it, and up to the present time.

Q. Now, with what success did you operate the plant, financially?

A. Well, I would like, in answer to that question I would like to give you two periods during our operation.

Q. In your own way.

635 A. We began in June, the best I remember, in 1916 to actually slaughter hogs; we never did kill very many cattle at all. On January 1st, 1917, our books did not show any profit of any moment, if any at all, and we did not feel very good. Due to an advancing market from January to May, however, and the application of the prices that the stuff was worth in May to our stock, and the application of the prices of our stock on January 1st, accounted for the suplus of profits as shown in this statement during our ownership of the plant.

Q. Referring to Commission's Exhibit No. 112, which shows a gross profit of $130,000; do I understand that that profit is the result of the increase if price of the stock that you had on hand between January 1st, 1917 and the date of the statement?

A. Well, using the net profit instead of the gross profit, I would say that the advance in the market accounted for practically all of that net profit from January to May; that is my best recollection, as I remember it.

Q. What is the net profit?

A. $62.646. We had a very large stock of goods on hand.

Q. Between January 1st, 1917, and the date of the statement you were carrying considerable of a stock of goods?

A. Yes sir.

636 Q. What did that stock consist of?

A. Of various products of the packing house, dry salt meats, sweet pickled meats, meats in the process of curing.

Q. Did you have a considerable stock of any particular kind of meats?

A. We had a big stock of sweet pickled meats, I remember, and dry salt meats, and dry salt shoulders.

Q. Were you have any difficulty in moving that kind of product?

A. We had considerable difficulty in moving this sweet pickled hams and those shoulders.

Q. And were they accumulating on your hands or otherwise?

A. They were accumulating.

Q. What was their condition?

A. Let me finish my answer to this other question: They accumulated to the extent of our having to turn our beef cooler into storage room for dry salt meats.

Q. Were they past the process of curing?

A. Oh, yes, they were all cured, ready to be sold to the shipper.

Q. It was meat which should have been marketed

637 in the ordinary course of business?

A. Yes sir.

Q. But which you were unable to move?

A. Well, we had been unable to move it, we had a good deal of difficulty in moving those shoulders, especially, and those hams that we had on hand.

Q. And as a matter of fact, the meat was deteriorating, was it not?

A. Well, I would not say so as to depreciation, except to keep the meat in, keep the ham in sweet pickle, it gets saltier, the saltier it gets the more you have to soak it to get the salt out.

Q. And the more you have to reduce your price in marketing it?

A. Yes.

Q. Now, what was the character of the hogs that you slaughtered down there?

A. Well, you mean as to hard or soft hogs?

Q. Yes?

A. Well, our hogs were soft hogs, more than ninety per cent of them were what is known as peanut fed hogs, and oily hogs.

Q. And that makes a soft hog, does it?

638 A. Yes.

Q. Now, are the pork products from that kind of a hog more or less valuable than the pork products from a northern or hard hog?

A. Well, that is a question that dan be answered two ways. The western hog is more acceptable to the saleman, the broker, and the butcher, but so far as the edibleness of the two hogs, my experience has been that one eats about as good as the other, as far as flavor is concerned.

Q. Is the difference in the character of the products reflected in the market price?

A. We always had to sell ours for less money than the western price.

Q. You have testified that you had a broker in Birmingham here; who was that broker?

A. E. P. Allen & Company.

Q. Did he sell some of your meat?

A. Yes.

Q. Did he get the same price for that meat that was received for hard western hogs?

Mr. Taylor: Oh, I object, Mr. Examiner; the direct examination did not touch upon the question of price.

639 Examiner Sadler: The objection will be sustained.

Q. (By Mr. Horton): How did your product sell on the Birmingham market as compared with hard northern hogs?

Mr. Taylor: That is objected to, Mr. Examiner.

Examiner Sadler: The objection will be noted.

A. My information was that our stuff was not bringing—

Mr. Taylor: One minute, Mr. Examiner, I wish to object to bringing out on cross-examination from this witness evidence which they should bring out in direct rebuttal by other witnesses, by witnesses who are competent to testify as to the facts they are called upon to testify; the witness here was not a salesman here in the Birmingham market; he had nothing to do with the selling of hogs here in this market, or canvassing the market; he did not touch upon this subject in his direct examination.

Examiner Sadler: Let the witness proceed; if it was not brought out in direct examination a motion to strike will be acceptable.

Q. (By Mr. Horton): I mean northern pork products?

A. We always sold our stuff for less on this market than the western products were bringing.

Mr. Taylor: I move to strike out the answer as outside
640 the scope of the direct examination, not proper cross-examination.

Examiner Sadler: The motion to strike will be sustained.

Mr. Horton: I submit that it is within the issues here presented within the direct examination; this witness has been allowed to testify to the fact that the pork products handled from the Andalusia plant brought less money than the same character of pork products from northern hogs. If allowed to pursue this line of examination, we intend to develop by the witness that the pork products from the Andalusia Packing Company were sold in the Birmingham market at a less price than the same character of pork products from hard northern hogs, that the extent of the variation would depend upon the market conditions here in Birmingham. That when the market was bare, and the products of the Andalusia Packing Company were in demand that a better price would be obtained, but that when there was a plentiful supply of hard northern products in this market, that the differential or spread would be widened, and that the Andaluisa products would sell for less money. We will further develop the fact that this pork was sold, E. P. Allen & Company, a broker in Birmingham, who represented the Andalusia Packing Company, frequently sold and almost always sold the Anda-
641 lusia products for less money than the market price on northern hogs of the same character.

Q. (By Mr. Horton): Mr. Henderson, is that the substance of what you would testify, if the questions were put to you to bring that out?

Mr. Taylor: That question is objected to, Mr. Examiner; I object to it being answered, and I wish to state that if counsel for respondent feels that the facts which he has just stated ought to be developed from this witness here, as a part of the defense in this case, it is entirely proper, I think, to attempt to bring it out by introducing the witness so the proper objections may be made to his questions as he asks them. Not cross-examination of the witness of the commission, who has not been asked any questions with regard to prices at which hogs were sold. Furthermore, yesterday we had here Mr. E. P. Allen, of Allen & Company, and also Mr. Bauer, a salesman, both of whom knew, and who would have been more proper witnesses than Mr. Henderson to have gone into that line of cross-examination, but he forebore from doing so at that time, I think very properly, and I submit that

it is not proper for him now to ask Mr. Henderson questions as to what hogs were selling for in Birmingham.

Examiner Sadler: The objection will be noted.

642 Mr. Horton: You may answer, Mr. Henderson.

Examiner Sadler: You make objection as to this answer?

Mr. Taylor: I make objection as to this answer.

Examiner Sadler: The objection to the answer will be sustained, as to this answer; I dont think the witness has a right to state in answer to the question as put.

Mr. Taylor: Counsel is really making this witness his own and by making a statement asking a very long leading question covering a great many other questions, and then asking for one answer in the affirmative or negative, which is manifestly improper, even as a question to his own witness.

Mr. Horton: I will make another statement in the record. Conferring with the witness Mr. Henderson, he informs me that that would be the substance—

Mr. Taylor: I object to this testimony being—

Mr. Horton: of his testimony.

Mr. Taylor: I object to counsel for the respondent testifying himself, and I move to strike out his testimony.

Examiner Sadler: The motion to strike will be sustained.

Q. (By Mr. Horton): Now, Mr. Henderson, you spoke about the plant running in season down there at Andalusia, just what did you mean by that?

643 A. Our section, you know, we have never got our farmers to raise their hogs throughout the year and market them evenly through the year; they market them like they always been accustomed to marketing the other crops, through the winter; we have a heavy season in the winter, and a light one in the summer.

Q. And the winter season extends during what months?

A. About November to the 1st of March or April.

Q. Then during the summer season it is light?

A. Yes.

Q. Was it your custom to operate the plant at all during the summer season?

A. Oh, yes, we operated all the time.

Q. But the receipts were very light in the summer?

A. Yes.

Q. Now, assuming that the Federal Trade Commission enters an order which requires Swift & Company to dispose of this plant, would that be an advantage or a disadvantage to your community?

Mr. Taylor: Mr. Examiner, I object to the question, not proper cross-examination, not a proper question, even to ask of his own witness.

644 Examiner Sadler: The objection will be sustained.

Mr. Horton: I will make another statement on the record.

Mr. Taylor. I object to any further testimony, Mr. Examiner, it is not in accordance with our procedure for counsel to testify.

Examiner Sadler: The objection will be noted.

Mr. Horton: If allowed to develop this line of testimony from the witness, we will show that it would be a disadvantage to the coimunity to have the ownership of this plant divorced from Swift & Company.

Mr. Taylor: I have a motion here which I ask to be ruled upon. I moved here—I asked that counsel for the respondent be not permitted to testify further upon the record, even under the guise of a statement or offer in evidence; it is not in accordance with our practice, and I ask for a ruling upon it.

Examiner Sadler: The motion to strike will be noted.

Q. (By Mr. Horton): Now after you got into the—or, first—Did you know anything about the packing business before you built this plant?

A. No sir.

Q. I would like to have you develop that thought further, follow down what your experience with that was?

645 A. Well, we went into the packing house business without knowing anything in the world about it, as I stated before, to try to save ourselves financially by diversification, and offering the people a market for their hogs. We were considerably handicapped in disposing of our products in various markets—the principal argument they made was the softness of the meats, the oiliness of our meats; we had no selling organization; we was not not large enough to go out and get an organization sufficient to dispose of our products in the different cities throughout the country, and had necessarily to rely on brokers in several places. We had our capital invested in plant and machinery, as our statement will reflect, possibly more; and necessarily had to borrow enormous sums of money for small people like we were.

Mr. Taylor: Mr. Examiner, I wish to object to any more of this answer at this time; it is going away beyond the scope of the direct examination.

Examiner Sadler: The objections will be noted.

Mr. Horton: Q. Did you finish your answer?

A. No.

Q. Go ahead.

A. And by reason of our inability to dispose of our
646 products as rapidly as we should have disposed of them, or as rapidly as they accumulated, our obligations maturing all the time, it made it rather burdensome on us to meet our obligations from time to time as they should have been met in a businesslike manner, and the fact—

Mr. Taylor: It is understood, is it, that all this latter part of his answer is over my objection?

Examiner Sadler: Yes.

A. (Continuing): The fact that a few of us were indorsers and guarantors and personally liable and responsible for the payment of the entire obligations of the company, the money borrowed, it made it rather heavy burden for the several individuals who endorsed all this paper, and we were under a very heavy load, and as a matter of fact, we were anxious to get from under it.

Mr. Taylor: Now, I move to strike out such portions of the answer as are made after my first objection.

Examiner Sadler: The examiner will sustain the motion as to the latter part. Motion to strike will be sustained.

Q. (By Mr. Horton): Did you find your method of merchandising through brokers satisfactory or otherwise?

A. Well, it could have been more satisfactory, but we
647 had to put up with it like it was.

Q. Did the brokers have any money invested in this product?

A. No.

Q. Did the broker have any other interest in the sale other than to get his commission?

A. No.

Q. And keep his account?

A. None.

Q. Now, I take it that this—I take it that when Swift & Company bought the assets from the Andalusia Packing Company that it was satisfactory arrangement all around, both to the buyer and the seller?

Mr. Taylor: We object to that.

Examiner Sadler: The objection will be noted.

A. It was with us; very satisfactory; I have never heard any complaint from them.

Mr. Taylor: I understood that this objection was sustained.

Mr. Horton: He said noted.

Mr. Taylor: I move to strike out the answer then; we have not talked about when Swift bought the property from the Andalusia Packing Company; there is nothing in the direct testimony on that; it is not mentioned until this
648 question on cross-examination brings it out.

Examiner Sadler: The motion to strike will be noted.

Q. (By Mr. Horton): Is the plant still operating down there, Mr. Henderson?

A. Yes sir.

Q. Never been closed up, has it?

A. No.

Mr. Horton: That is all.

Examiner Sadler: Is that all?

Mr. Horton: Yes.

Redirect Examination by Mr. Taylor.

Q. Now, referring to your satisfaction with Swift & Company buying the assets of the Andalusia Packing Company, in what way were you affected, to cause you to feel satisfaction, when the property of the Andalusia Packing Company was conveyed to Swift & Company, in March, 1918?

A. By reason of our limited financial ability, we were under a tremendous load to try to finance the property.

Q. Up to March, 1918?

A. Up to July, 1917.

Q. But no one is talking about that period. Mr. Hor-
649 ton asked you about the transfer of the property of the Andalusia Company to Swift & Company, not the transfer of the stock to the stock of the Andalusia Packing Company.

A. Well, I have no testimony in there; I am not testifying beyond July 24th, 1917.

Q. Will you please read the question and answer? Mr. Henderson pay attention very closely.

(Question and answer read as follows: "Q. Now, I take it that this—I take it that when Swift & Company bought the assets from the Andalusia Packing Company, that it was a satisfactory arrangement all around, both to the buyer and the seller?

A. It was with us, very satisfactory; I have never heard any complaint from them.")

A. I only attempted to answer that question insofar as it related to our sale to them of the capital stock, July 24th, 1917, and not beyond that date.

Q. So with your present understanding of the question, do you wish your answer stricken out?

A. Insofar as it refers to the sale of the property after July 24th, 1917.

Q. There was no other question asked you than
650 whether you were satisfied with the transfer of the physical assets of the Andalusia Packing Company to Swift & Company. Now, with your present understanding of the question, do you desire your answer stricken out, or do you wish it to stand?

A. When we sold the capital stock in 1917 to Swift & Company we were perfectly satisfied, and beyond that date I am not testifying, because I was not connected with it.

Mr. Horton: It was a purchase and sale between a satisfied buyer and a satisfied seller, so far as you know?

A. On July 24th, 1917, it was very desirable to us, and satisfactory.

Q. (By Mr. Taylor): Equally desirable and satisfactory to Swift & Company, so far as you know?

A. I dont know anything about whether it was or not, but they have never complained.

Q. They paid you a substantial premium on your stock, did they not?

A. They did not pay us quite book value for that stock at the date we made deliver.

Q. Just what would book value have been?

A. According to this statement, Exhibit No. 112, the book value would be $196,338.

651 Q. And how much did you get out?

A. $186,550.

Q. Par value of the stock was fifty dollars a share, wasnt it?

A. Yes sir, fifty dollars a share.

Q. And you got seventy dollars a share?

A. Seventy dollars.

Mr. Taylor: That is all.

Recross Examination by Mr. Horton.

Q. The difference between par value, fifty dollars, and what you got, seventy dollars, is accounted for by merchandise and other property on hand is it not?

A. The gross earnings over expenses, in other words, over that, it was profit.

Q. It was represented for the most part by inventory, fixtures, and buildings?

A. My recollection is that our books showed no material profit on January 1st, 1917, and due to an advancing market, and the application of the market price to the inventory of May 1st, we were able to show a profit as shown by statement of May 1st, marked Exhibit No. 112.

652 Mr. Taylor: Now, Mr. Examiner, I move to strike out the witnesses recollections, as we have the books present, and will endeavor to show by competent evidence what the facts were with regard to the matter about which the witness has testified from his recollections. Recollections as to figures are always more or less unsatisfactory, and when we are able to have the records, and the original sources, I submit that they ought not to be permitted to stand, recollections ought not to be permitted to stand.

Examiner Sadler: The motion to strike will be sustained.

Mr. Horton: What?

Examiner Sadler: Will be sustained.

Mr. Horton: Exception. That is all.

Mr. Taylor: That is all.

Examiner Sadler: The witnes will be excused.

(Witness excused.)

Examiner Sadler: Take a recess for ten minutes.

(Whereupon, at 3:20 P. M. the hearing took a recess until 3:30 P. M.)

After recess.

Examiner Sadler: The hearing will come to order.

653 THOMAS G. CONNER called as a witness, having been first duly sworn, testified as follows:

Direct Examination by Mr. Taylor.

Q. What are your initials, Mr. Conner?

A. Thomas G.

Q. Where do you live, Mr. Conner?

A. I am living at Andalusia.

Q. What is your business at the present time?

A. I am in the peanut business.

Q. Going back to the year 1916, what was your business at that time?

A. Was that the year that the plant was built—I mean sold in '17, wasnt it?

Q. Yes. That is, the stock was sold in '17.

A. '16, part of the year I was engaged in—I was superintendent of construction for the packing plant for the Andalusia Packing Company.

Q. What part of the year 1916 was that?

A. Well, it is from the first of the year until the time they began operations, I think some time in June.

654 Q. And then what was your occupation?

A. Well, I was manager of the plant as soon as it was in operation?

Q. From June on, how long were you manager of the plant?

A. Well, until July, 1917.

Q. I show you here a book marked B for identification, do you recognize that book?

A. It is the book that I looked over this morning.

Q. And what is it?

A. It is the minute book of the corporation.

Q. The Andalusia Packing Company?

A. The Andalusia Packing Company; I think there is some minutes in here that I did not make.

Q. Now, down to what period did you—did you keep that book for a time?

A. Yes sir, I kept it altogether.

Q. Down to what period?

A. Until the time that the transfer was made.

Q. Down to what period did you keep the book?

A. I think everything from there back until the time the transfer was made; I dont know anything about those minutes there.

655 Q. Down to the minute of a special meeting of the Board of Directors of the Andalusia Packing Company held in Chicago on the 24th day of July, 1917?

A. Yes sir.

Q. Everything in front of that. Now, do you know what was done with the minute book after you ceased keeping it?

A. Why, yes sir, it was turned over to Swift & Company, I dont know just exactly whether they were carried up there by Mr. Henderson and Mr. Darling, or whether they were shipped there. I had my instructions to turn in the minute book; they were first examined by their attorney, I forget his name.

Q. Mr. Fisher?

A. Yes, Mr. Fisher, and some certificates made out at his

suggestion, and then they were turned over to Swift & Company or turned over to Mr. Henderson; I dont know what he did with them.

Q. I understood you to say you received your instructions?

A. To turn them over to Mr. Henderson.

Q. From whom did you receive those instructions?

A. Mr. Henderson told me to turn them over to him.

Q. You said first turned them over to Swift & Company?

A.—Well—

656 Q. What caused you to say that?

A. Well, I had heard that they were sent to Chicago; that they had been turned over to the office.

Q. Of Swift & Company?

A. Yes sir, of Swift & Company.

Q. Who told you that?

A. I think Mr. Rogers told me that; there is a thing there that is not a minute.

Q. You referring to page 293?

A. Yes, that is a survey of a well there. They were looking for that; we made search for the minute book, and I was told it had been sent to Chicago.

Q. Mr Rogers told you it had been sent to Chicago?

A. Yes sir.

Q. To Swift & Company?

A. Yes sir.

Q. When was this conversation, as nearly as you can recall it?

A. I could not give the date of that, Mr. Taylor.

Q. It was after July 24th, 1917?

A. It was after November 1st, 1917.

Q. Who was Mr. Rogers?

657 A. He was manager of the plant at that time.

Q. Where did Mr. Rogers come from?

A. I dont know, sir.

Q. I show you Commission's Exhibit 113, letter from H. C. Carr to T. E. Henderson, and ask you whether the Mr. Rogers that you refer to is the same G. D. Rogers referred to in that letter?

A. The Rogers that I refer to was Mr. G. D. Rogers.

Q. This letter says Mr. Rogers would arrive in Andalusia on the 16th day of July, 1917, what is your recollection in regard to the time that he did arrive?

A. Well, about that time, he came about that time.

Q. And when Mr. Rogers arrived there, what did he do?

A. You mean in connection with the plant?

Q. Yes?

A. Well, he told me that he wanted to go over the organization and familiarize himself with it, and he did; spent several weeks at that.

Q. And what did he actually do there during that time?

A. Well, he was not active in anything for the first several weeks, he ultimately, though, became manager of the plant, took over the correspondence.

658 Q. Do you know whether he received a salary at any time from the Andalusia Company?

A. No sir, I do not. I know as a matter of fact that he did, but then, I dont know that I can say that I knew that he received it at any time, that is, at any specific time.

Q. Do you know when he commenced to receive the salary?

A. No sir, I do not.

Q. Do you know whether or not the books which are here will show when Mr. Rogers commenced to receive a salary?

A. No sir, I dont know whether that is on the books or not; I dont know anything—very little to do with the keeping of the books.

Q. Now, did you know Mr. C. B. Colt?

A. Yes sir.

Q. When did you first meet Mr. Colt?

A. Why, my recollection is that he came about the time Mr. Rogers did, or soon afterwards.

Q. Along about the 16th of July, 1917?

A. Yes sir.

Q. I show you page ten of the paper marked A-23 for identification; do you recognize the signature of that page?

A. I could not identify that positively; that is very

659 much like Mr. Colt's writing.

Q. Do you know Mr. Colt's writing?

A. Well, I never saw a great deal of it.

Q. Now, I show you page 15, is that Mr. Colt's signature?

A. I would say that it was.

Q. I show you page 16, are those initials Mr. Colt's signature, so far as the initials are concerned?

A. Yes sir, I would say that they were.

Q. Now please look again at page 10, would you say that is in the—is or is not Mr. Colt's signature?

A. I would say that it was.

Q. Now, what did Mr. Colt do when he arrived at Andulusia?

A. He was auditor.

Q. Did he arrive along with Mr. Rogers, according to your recollection, come in on the same train together?, the same day?

A. I dont remember whether it was exactly the same day, but about the same time.

Q. About the same time, and he became auditor?

A. Yes sir.

Q. What were the duties of the auditor, what did he do as auditor?

660 A. I dont know that I can answer that question, Mr. Taylor, as to what his duties were.

Q. Did he have anything to do with the keeping of the books?

A. Well, more to do with making up the reports, I think; that is, not with the individual ledgers.

Q. Do you know to whom he submitted these reports?

A. Why, they were submitted to the home office.

Q. You mean to Swift & Company in Chicago?

A. Swift & Company, yes sir.

Q. Do you know what these reports were? The character of the reports were?

A. Well, they were stock reports, collection reports, production reports.

A. About how frequently were they submitted?

A. Why, they had sometimes four weeks closing, sometimes five, that is all I remember particularly; there may have been other reports, but I dont recall.

Q. I now call your attention to page 9 of the schedule A, marked Exhibit A-22 for identification; whose signature is that?

A. I would say it is Mr Colt's signature.

Q. Now, I show you page 26, do you know whose signa-

661 ture that is, as far as the initials are concerned?

A. I think it is Mr. Colt's; I would say it is Mr. Colt's.

Q. That is C. B. C., that is Mr. Colt's initials as he signed it?

A. Yes sir, I saw him sign it that way.

Q. I show you page 29 of the same document; do you recognize the signature there?

A. No sir, I do not.

Q. Do you know Mr. Peacock?

A. No sir, I dont know Mr Peacock.

Q. Has he ever been to Andalusia, so far as you know?

A. Not to my knowledge, no.

Q. That was Mr. C. A. Peacock, the secretary of the Anda-

lusia Packing Company that we are referring to, at least, was secretary of the Andalusia Packing Company on January 11, 1918, when this letter was written?

A. I dont know of his ever having been there; he might have been there; without my knowing it.

Q. Now, how long did you remain in the employ of the Andalusia Packing Company?

A. Until about November 1st, '17.

Q. Do you know whether Mr Colt also received a sal-
662 ary from the Andalusia Packing Company?

A. Well, I did not sign the checks, I dont know whether he did or not; I suppose that he did; I was under the impression that he did, but then I dont know that he did.

Q. Who did sign the checks?

A. Mr Colt signed the checks; Mr Rogers signed the checks more or less, somebody else; there was three of them, I dont know who the third party was; I believe the cashier signed the checks.

Q. Mr Connor, I call your attention To Exhibit No. 74, is that your signature, this your signature here?

A. Yes, that is my signature.

Q. Did you write th at letter?

A. Yes sir.

Q. Will you please read the last paragraph of the letter and state what you mean by it?

A. "It is possible that even though party you mention may buy the plant, they may wish us to handle the account in the future as we have in the past."

Q. Who did you mean by "us"?

A. Management of the plant, the Andalusia Packing Company.

Q. By "Us" just who did you mean?

663 A. The Andalusia Packing Company, management of the Andalusia Packing Company. If I would be allowed to state, I can make that paragraph clear. We were advised that it was desirable that we remain with the plant, that is, the office force.

Q. That included yourself and who else?

A. Well, all of the—Mr Matthies was the man that was talking with us, and he made the statement.

Q. Mr Matthies of Chicago?

A. Yes sir.

Q. Of Swift & Company?

A. Yes sir; he made the statement that it was their desire that we all stay there; I dont remember just who was present;

my recollection is that Mr Davis and two bookkeepers and myself were present at the time; and he said that they wanted us to remain with the company. That letter was written in answer to a letter from Mr. Miller, and the purpose for that letter—I dont know, meant just exactly what it said, that is, as far as I was concerned; there is nothing definite about it at all; that was the impression that I was trying to convey.

Q. I show you paper marked K for identification; is that the letter to which you were replying in this Exhibit 74?

A. Yes, I would say it was.

664 Q. Do you remember receiving the original of this letter K for identification, July 12th, from J. W. Clark and Company, incorporated.

A. Yes sir.

Q. I now show you L for identification, letter from J. W. Clark and Company, dated July 20th, 1917, replying to your letter of July 16th. Do you recall receiving that reply?

A. Yes sir.

Q. Mr Connor, do you remember when the Andalusia Packing Company began to ship its products to the Swift & Company branch house for sale?

A. Why, I could not say that I recall the first shipment, but then, we made shipments to the Swift & Company branch house in the fall; I think I would be correct in saying in the fall of '16?

Q. 1917, you mean, dont you?

A. No sir, of '16.

Q. That is before the stock was acquired?

A. Well, I know, but we had accounts with Swift & Company; the books will give that.

Q. The books will give it?

A. Yes sir, there is an account over there; I refreshed my recollection by looking at that; I am quite sure that

665 we made sales to them in January of 1917.

Q. What branch house does the book show?

A. Well, there is some sales, I dont recall the dates, or just exactly when, but there was sales made to the branch house at Norfolk, the branch house at Montgomery, the branch house in Birmingham; I remember particularly the Norfolk and Montgomery branch houses; possibly some to the Pensacola branch house.

Q. Now, when did you commence shipping to these branch houses regularly?

A. Well, we shipped one or two cars a week to Norfolk after we began to ship at all.

Q. Now, take Birmingham, when did you first make shipment to the Birmingham branch house?

A. I cannot give the date.

Q. Was it while E. P. Allen was still broker?

A. Well, we made some shipments to Swift & Company while Allen was still broker.

Q. That was after the stock was acquired on July 24th, 1917?

A. No sir, prior to the time that the stock was acquired.

Q. You say you found the account in the ledgers to
666 that effect?

A. I said I was not quite sure about Birmingham.

Q. Will you please examine the ledgers and state the date when the shipment was made?

A. Now, with reference to which branch?

Q. Birmingham?

A. I did not keep that ledger.

Q. Do you find an account with Swift & Company in Birmingham in that ledger?

A. No sir, I dont find any, except about the time of the transfer of the stock, I believe the transfer of the stock was in July?

Q. July 24th, 1917.

A. Well, I find shipments in there on the 14th, 1917.

Q. Now, Mr. Conner, I call your attention to the first paragraph of the letter of July 25th, 1917, from the Andalusia Packing Company to J. W. Clark & Company, appearing as Exhibit 76, that letter was written by you, was it not?

A. Yes sir.

Q. Now, refer particularly—read the first paragraph.

A. All right, sir.

Q. Now, in that paragraph, by "branch houses", what
667 do you mean, the branch houses of Swift & Company?

A. The branch houses of Swift & Company, yes sir.

Mr. Taylor: You may cross examine, Mr. Horton.

Cross-Examination by Mr. Horton.

Q. Mr. Conner, you stated that you were manager up until what time?

A. I beg pardon?

Q. You were manager of the Andalusia plant up until what time, November, did you say, 1917?

A. I said I was with the company up to the first of November, 1917, yes sir.

Q. And with reference to your sales policy, and the method in which prices were made, was there any change made in the operations of the company after July 24th, 1917, to what had been done previous to that time?

A. No sir, I dont recall any marked changes.

Q. Went on in the same way?

A. Yes sir.

Q. Made your own prices?

A. Yes sir.

Q. Sold your goods to the best advantage?

668 A. Yes sir.

Q. Now, these shipments that were made to Swift & Company's branch houses, both before and after July 24th, 1917, were those sales?

A. Yes, they were sales.

Q. Each one of them was a merchandise transaction between a willing buyer and a willing seller?

A. As far as I know; I dont know; previous to that time the sales were made through brokers; after that time they were made direct, usually by phone.

Q. You mean previous to July 24th, 1917, they were made through brokers?

A. Through brokers.

Q. Are you sure about that?

A. Well, most of them were, the biggest bulk of our business; not all of them; some of them were made direct with the managers.

Q. Manager of the branch house?

A. Yes sir; Mr Curtus sometimes bought stuff himself from Montgomery, over the phone.

Q. Who was Mr Curtis?

A. He was manager of Swift's branch house in Montgomery.

669 Q. In Montgomery?

A. Yes sir.

Q. But in all cases these were sales?

A. As far as I know, yes sir.

Q. And the prices were agreed upon before the sale was made?

A. So far as I recall.

Mr. Taylor: He says they were made through brokers; the brokers would be the proper parties to know that, I submit.

A. They would submit the order to us before we would

confirm it, Mr. Taylor; we would agree on the price before we would ship our stuff.

Q. (By Mr. Taylor) That is, the brokers would secure the orders and submit the orders to you?

A. Submit it to us for confirmation.

Q. (By Mr. Horton) Where the sales were not made through brokers, it was a straight merchandise transaction between a buyer and a seller?

A. Yes sir.

Q. How did the price of your product compare with the price of a similar grade of product made from hard hogs?

Mr. Taylor: I object to the matter of prices being gone into on cross examination; it is outside of our direct examination.

670 Examiner Sadler: The objection will be sustained.

Mr. Horton: That is all.

Redirect Examination by Mr. Taylor.

Q. Mr. Conner, just when was it that you ceased to be manager of the Andalusia Packing Company, if you can state?

A. I could not answer that question specifically, because I worked out as Mr Rogers worked in.

Q. Yes. It was some time before you left, you felt that you had ceased to be manager, and Mr Rogers took charge, did he not?

Mr. Horton: The question is objected to, as leading.

Examiner Sadler: The objection will be sustained.

Q. (By Mr. Taylor): Will you please state more fully what occurred in regard to Mr Rogers assuming the duties which it was stated in this letter of July 11th by Mr Carr to Mr. Henderson—

A. Well, I will state it in my own way, Mr Taylor, and if I say anything that I ought not to, you stop me. Mr Rogers came in, and he told me he wanted to see how we had been running the plant; he wanted me to go on just like we had been going.

Q. That was about July 16th?

671 A. Yes sir, when he first came in. He and I worked at the same desk Previous to that time I had signed all of the checks, at that time; that is on the 16th of July—whenever the transfer was made—

Q. The 24th of July.

A. The 24th of July, the method of signing checks was changed, and he took that, assumed that duty.
Q. Yes.
A. And later on he assumed other duties.
Q. When did he begin to sign letters?
A. Well, he wrote letters, and I did, too, from the time that he came there.
Q. What was the character of these letters that he wrote?
A. Well, I dont know that I can answer that.
Q. To whom did he write such letters?
A. I could not answer that.
Q. Customers?
A. Well, he wrote some customers, I suppose, I dont recall.
Q. I show you here letter of September 13th, exhibit 86, letter to J. W. Clark Company, signed by Mr. Rogers, is it not?
A. It looks like his signature.
Q. And here is one of August 25th, also to J. W.
672 Clark Company, signed by Mr Colt, is it not?
A. I would judge that is Colt's signature, I have no recollection of the letters, though, either of them.
Mr. Taylor: I move to strike out the last part of his answer as not responsive.
Examiner Sadler: The motion will be sustained.
Q. (By Mr. Taylor). Now, do you remember any brokers that the Andalusia Packing Company had, aside from J. W. Clark Company in Atlanta, Georgia, and E. P. Allen & Company at Birmingham, Alabama?
A. Well, prior to the time that we had J. W. Clark Company, we made sales of one or two cars of fresh meat through Stanlin or Stanton, or some such name as that; the first we shipped; but we discontinued our brokerage arrangement with him. Then we had Oliver Wynn at Norfolk, and we made some sales through other brokers. I remember in particular Taylor Brothers in Chicago.
Q. Before you commenced selling through J. W. Clark & Company at Atlanta, you stopped selling in to Stanlin, did you not?
A. Yes sir, we only shipped one or two cars, I cannot remember sure which.
Q. It was not your policy to sell in any given town
673 through more than one broker?
A. Well, I dont know that we ever had any exclusive arrangements, I dont recall any.

Q. But the way it practically worked out, it was exclusive, wasnt it?

A. Yes sir.

Q. Mr. Horton: I object to that. It dont make any difference how it worked out.

Examiner Sadler: The objection will be noted.

Mr. Taylor: I think it makes a lot of difference.

Examiner Sadler: The objection will be noted.

Q. (By Mr. Taylor) Now, did you have a broker in Norfolk, did I understand you to say?

A. Yes sir, there was a broker in Norfolk.

Q. Who was he?

A. Oliver Wynn.

Q. And the sales that you referred to to Swift & Company in Norfolk were made through that broker?

A. I could not be sure whether they were all made through him or not; some were.

Q. Do you know—are you sure that any of them were made not through him?

674 A. No sir.

Q. Now, how about the sales made at Birmingham, was that not made through Allen, E. P. Allen & Company?

A. I dont know.

Q. You dont know whether the first sale of July 14th was made through Mr. Allen or not, then?

A. No sir, I dont recall.

Q. Do you know whether the latter sales were made through Mr. Allen?

A. Well, I feel quite sure some were not.

Q. There was one there in August, the last one, I believe, on the account which you recently referred to?

A. I could not say whether it was made through him or not; I do not think it was.

Q. Do you remember when you discontinued selling altogether through Allen?

A. No sir, I do not. I suppose the account will show?

Q. How near can you fix the date, as you recall it?

A. Without reference to the record?

Q. Yes?

A. I could not fix it.

Q. Could not fix it at all?

675 A. No sir, not from my recollection.

Q. Was it before you left?

A. I could not say as to that.

Q. Now, before you left, your duties as manager were al-

most entirely taken over, if not entirely taken over, by Mr. Rogers, were they not?

A. Yes sir.

Mr. Horton: I object to that question as leading, and move to strike out the answer.

Examiner Sadler: The objection will be noted, and the motion to strike will be noted.

Q. (By Mr. Taylor) Now, will you please search back in your mind, and state as nearly as possible when your duties as manager were taken over entirely by Mr Rogers?

A. I have nothing in my mind to fix the time, Mr. Taylor, I could not say, some time between the time, though, that he came there, and the time that I left.

Q. Some time before you left?

A. Yes sir.

Q. And the process was gradual up to that time, would you say.

A. Yes sir.

676 Q. Up to the time—

A. Well, there was some duties that he assumed at once and there was others that I kept until I left there.

Q. What were the character of the duties that he assumed at once?

A. Principally those that had to do with the selling and disposing of the product, distribution of it.

Q. How soon was that after arriving?

A. I would say two weeks.

Q. What were the character of the duties that you retained to the last?

A. Buying.

Q. Buying of the stock?

A. Livestock, yes sir.

Q. Livestock?

A. Yes sir.

Q. Did you observe closely what Mr. Rogers was doing in regard to the duties which he took over, or was your attention principally directed to the things which were left for you to do?

A. Well, I didnt watch him particular; I dont know that I could say that I observed closely what he was doing; I
677 gave my attention to the things I was doing pretty closely.

Mr. Horton: Mr. Examiner, I submit that all this is improper redirect examination.

Examiner Sadler: Counsel for the respondent will be al-

lowed to cross examine the witness on the matters brought out here.

Mr. Taylor: This, Mr. Examiner, as I recall it, is apropos to questions brought out in cross examination by counsel for the respondent. He inquired of this witness what change in policy, if there was any change of policy of the sales department after the acquisition of the stock, and while this witness was still in the employ—all apropos of those questions.

Examiner Sadler: Counsel for the respondent will be privileged to cross examine on this line of testimony.

Q. (By Mr. Taylor) Now, isnt it entirely possible that Mr. Rogers may have made a great many changes in the policy of selling, of which you knew nothing, before you left?

Mr. Horton: I object to that; I dont care what the possibility was; the possibility was that he might not have sold anything at all.

Examiner Sadler: The objections will be noted.

Q. (By Mr. Taylor) You may answer.

678 A. Your question is that there might have been great changes without my being conversant with the changes?

Q. Yes, in the selling policy.

A. I hardly think so.

Q. Mr Rogers assumed charge of the selling policy the first thing he did, after arriving there, after a week or two?

A. Yes sir.

Q. You still had a great deal to do with taking care of the buying?

A. Yes sir; we were in the same office, however.

Q. You did not fell in incumbent upon you to watch Mr. Rogers and see what he was doing?

A. No sir, I did not.

Q. He was really representing the owners of the corporation, owners of the stock?

A. Yes sir.

Mr. Horton: I object to this method of cross-examination and argumentation.

Examiner Sadler: The objection will be noted.

Q. (By Mr. Taylor) Now, in speaking of changes of policy, change of selling policy, your answer you made—would you consider the changing from a broker to a branch house of Swift & Company a change of policy?

679 Mr. Horton: I object to that, your Honor; the matter speaks for itself; it is a matter from which different

minds would draw different conclusions. In the final analysis, it is a question for the court, not for the witness.

Mr. Taylor: This witness has been asked what he considered a change of policy. Now, I want to show what he means by a change of policy; it is a question anyone can—anybody can testify what he meant.

Mr. Horton: It is a point tat I contend is for the court, and not the witness. It is a question for the Commission.

Mr. Taylor; It is a question that nobody but this witness can testify.

Examiner Sadler: The objections will be noted.

Mr. Horton: We except.

Q. (By Mr. Taylor) You may answer.

A. My answer is that there would be a change of policy in so far as you were changing it from one individual to another, but as my understanding, both the branch house and the broker is on its own base, that is, on its own merits, and to that extent I would think that it would not be a change of policy.

Q. Would not be so far as the Andaluisia Packing Company was concerned?

680 A. Yes sir.

Mr. Taylor: That is all.

Recross Examination by Mr. Horton.

Q. Then I understand you, Mr. Conner, to say that the change from a broker to a branch house is just simply changing your selling agency?

A. Yes.

Q. Changing your method of distribution; goods reached the same consumers?

A. Yes sir.

Q. Now, in regard to Stanlin at Atlanta, you say you shipped two cars of products to him?

A. One or two cars; my recollection is two cars; there may have been three, just a few cars.

Q. Were the results of those shipments satisfactory or otherwise?

Mr. Taylor: Oh, that is objected to.

Examiner Sadler: The objections will be noted.

A. Well, we considered that we had not got full returns from our shipments.

Q. What is the proportion of the returns that you got,

or, rather, what portion of the price of the product did
681 you get?

A. They were sold from half to two-thirds of the consignment price.

Mr. Taylor: Now, do I understand my objection holds good to all this line of questions?

Examiner Sadler: Yes.

Mr. Taylor: Nothing in the direct examination about this matter at all.

Q. (By Mr. Horton) What was the relation to the consignment price, of the consignment price to the market price?

A. At that time?

Q. Yes, at the time it was made, at the time of the sale?

A. What market price?

Q. Well, either the price on the Atlanta market, or the price on other corresponding markets.

A. I dont know, Mr. Horton, the shipments were made and the prices authorized by Mr. Brooks, who had charge of the opening of the plant; this was the initial shipment, and we had no prices at that time.

Q. This was made about the time the plant opened?

A. Just the first shipment, yes sir.

Q. Was it customary to make this consignment price
682 at or about the equal of the market price?

A. What market?

Q. General market, or the nearest and best market.

A. Why, we generally scaled the market price on our products, that is, the quoted market.

Q. Your market price would be a little less than the quoted price?

Mr. Taylor: Oh, I object to this, Mr. Examiner.

A. Yes sir.

Mr. Taylor: We are wandering off into byways, and getting away away from the subject.

Examiner Sadler: The objection will be sustained.

Q. (By Mr. Horton): Then to come back to the original proposition, I understand that your returns from the Stanlin shipments was about one-half to one-third under the—

Mr. Taylor: This cross-examination about the Stanlin shipment is all objected to; if the witness is permitted to answer at this time by the examiner, I would like to first ask a question of the witness.

Mr. Horton: Let me finish my question there, will you please? Please read it as far as I went.

(Question read.)

683 Q. (By Mr. Horton; continuing): one half to two-thirds of the market value of the goods?

A. Yes sir.

Mr. Taylor: That is objected to, Mr. Examiner.

Examiner Sadler: The objection will be sustained.

Mr. Taylor: I would like the opportunity to ask the witness a question apropos of this, if I am permitted.

Examiner Sadler: Any objection?

Mr. Horton: No objection to Mr. Taylor asking a question, no.

Q. (By Mr. Taylor): The record of the shipment to Stanlin was kept in the ledgers of the Andalusia Packing Company, was it not?

A. The ledgers that were in use at that time, yes sir.

Q. And the ledgers are now here, are they not?

A. No, sir.

Q. And you are testifying then, entirely from your recollection?

A. Yes sir.

Q. How long did this transaction take? How long ago was it?

A. I don't know, about four or five years ago.

Mr. Taylor: I move to strike out all of the testimony
684 on cross-examination about the Stanlin account, or about the returns from the goods sent to Stanlin.

Examiner Sadler: The motion to strike will be noted.

Mr. Horton: I think that is all.

Reredirect Examination.

Q. (By Mr. Taylor): Mr. Conner, do you know the arrangement that was inaugurated after July 24, 1917, whereby goods were shipped to the branch house of Swift & Company, how those goods were paid for, how they were settled for?

Mr. Horton: I object to that as not being within the scope of the direct examination; this is not only redirect, but it is reredirect.

Mr. Taylor: Yes, but you brought it out on cross-examination, whether there has been any change in the policy of selling, that is apropos of that line of questions.

Mr. Horton: Oh, that was two or three hours ago.

Examiner Sadler: The objection will be noted.

Mr. Horton: Furthermore, I wish to add a further objec-

tion; it is immaterial as to how they were paid for; the fact remains that it was a purchase and a sale; payment is only incidental.

Mr. Taylor: Well, let's see what were the exact facts,
685 so the court can decide whether it was a purchase or sale or what it was.

A. My recollection is that all sales made to the branch houses were billed to Swift & Company, Chicago, and credit taken.

Q. Credit taken by whom.

A. By the Andalusia Packing Company.

Q. By the Andalusia Packing Company?

A. Yes.

Q. Do you know how the branch house paid for the goods that they received from the Andalusia Packing Company?

A. Yes sir.

Q. Do you know whether they ever paid since July 24, 1917, whether they ever paid the Andalusia Packing Company for goods shipped by the Andalusia Packing Company to the branch house?

A. You mean if the money was sent from the branch house to the Andaluisia Packing Company?

Q. Yes.

A. Not that I know of.

Q. Yes, you say that all of the goods shipped by the Andalusia Packing Company were settled for by Swift & Company, Chicago.

686 A. I would not say that all of them, those that I know of, credit was taken by us; they were billed to Swift & Company, Chicago; billed to Swift & Company, Chicago, by the particular branch house to which they were shipped.

Q. Did you ever know of an instance in which Swift & Company, Chicago did not ultimately settle for goods shipped to a branch house of Swift & Company?

A. No sir.

Q. So all there was to that transaction was the shipment of goods to a branch house, and the receipt of the money from the Chicago house?

A. All except the order for the goods from the branch house.

Q. No commission was paid to anybody?

A. None so far as I know.

Q. What was the arrangement under which the brokers sold, was there a commission payable there?

A. Yes sir. You refer to what brokers?
Q. Any broker.
A. Clark or Allen?
Q. Any broker that the Andaluisia Packing Company ever did business with?
A. Yes sir.
687 Q. They did?
A. Yes sir.
Mr. Taylor: That is all.

Rerecross Examination by Mr. Horton.

Q. Mr. Conner, I show you exhibit marked for identification A-16, referring to the account of Swift & Company, Norfolk. I call your attention to the pencil notation up here "Commission paid by"—which extends down to the period of January 15th to February 27, after that, that notation is left off. Referring to this record, would you say the sales were made to Swift & Company, Norfolk, which were direct sales between the Andaluia Packing Company, and Swift & Company, and did not go through any broker?
A. Yes sir, I think I would.
Q. Do these amounts in here represent carload lots?
A. I would judge that they were car lots; I know we shipped swift & Company carloads; that is about what a car would be worth; I dont know just exactly; those are car numbers.
Q. And that is at least twelve carloads that did not go through a broker?
A. Yes sir.
688 Q. Those were all shipped prior to May 10th, 1917, were they not?
A. Yes sir.
Q. And referring to the credits there on the page, there is credits which show that those shipments were all paid for, does it not?
A. Yes sir.
Q. And the account is balanced, is it not?
A. Yes sir; I have not checked it; but it seems to be.
Q. Now, on these sales that you made to Swift & Company branch houses, let's see, particularly Birmingham and Montgomery, how were the prices fixed?
Mr. Taylor: Now, what sales do you refer to; those made after July 24, 1917, or those before July 24, 1917, if there were any before?

Mr. Horton: Both before and after.

Q. (By Mr. Horton): I will ask you if they make—

A. All the sales that I recall were made by phone, and the price was agreed on at the time the order was phoned.

Q. It was a question of your trying to get as good a price as you, good a price as you could get, and they were trying to buy it as cheap as they could?

689 A. They would ask us what we had on hand, and what we wanted for it.

Q. You would base your price on the amount of stock that you had on hand and the market price?

A. Yes sir.

Reredirect Examination by Mr. Taylor.

Q. Now, when were the sales that you had reference to, before July 24th, 1917, or after July 24th, 1917?

A. The ones that I had in mind at the time were made while Mr. Rogers was away, while I was temporarily discharging the duties that he would ordinarily assume, while he was away.

Q. And they were after July 24th, 1917?

A. Yes sir, they were after July 24th, 1917.

Q. Those were the sales which you billed to Chicago?

A. Yes sir.

Q. Sent the bills to Chicago?

A. Yes sir.

Q. Now, referring to this account of Swift & Company, Norfolk, Virginia, about which Mr. Horton has just asked you, I will ask you if that account was kept by you?

A. No sir, I made that statement when you first asked

690 me about it.

Q. Was there anything in that account in your handwriting?

A. No sir.

Q. And how about these pencil notations; did you make those notations?

A. No sir, I did not.

Q. Do you know what this means?

A. Well, I think I do.

Q. Well, do you know what they mean?

A. I would say yes.

Q. Was it customary to put this sort of pencil notations on accounts?

A. I do not know, sir, I did not keep the books.
Q. Do you know who made those pencil notations?
A. No sir; I think I recognize the figures, but then I dont —I would not swear to them.
Q. Whose do you think they are?
A. I think they are Mr. Davis'.
Q. Did you have a broker at Norfolk, Virginia, during the time any of these sales were made?
A. We made sales through Oliver Wynn.
Q. And when did Oliver Wynn act as your broker at Norfolk?
691 A. I dont know when he began to act for us; he acted for us until the time that the sale of this stock was made.
Q. And were these orders secured through Oliver Wynn?
A. Some of them were.
Q. That were shipped to Swift & Company, Norfolk?
A. Some of them were; some were not.
Q. Can you state from this account here which were and which were not?
A. No sir, not except in a general way; that we paid the commission on the orders that he secured.
Q. These orders that you speak of receiving by telephone were from they Birmingham house, were they not?
A. The Montgomery house.
Q. The Montgomery house?
A. And Birmingham house.
Q. You received some from the Birmingham house also?
A. Yes sir, to the best of my recollection.
Q. Swift & Company branch house at Birmingham, Alabama?
A. And Montgomery, yes sir.
Q. And that was subsequent to July 24th?
A. Yes sir.
Q. And they were billed directly to Chicago, as you
692 have testified?
A. Yes sir.
Q. Now, was that before you left—how long was that before you left—I call your attention here to the account of Swift & Company, Birmingham, Alabama, and I will ask you if that will refresh your recollection?
A. July 14, July 31st, August 30th.
Q. Did you bill directly to Swift & Company of Chicago for the order shipped on July 14th?
A. I could not say, Mr. Taylor, which were billed, and which were not. The account that I refer to was while Mr.

Rogers was away, in Chicago; I was acting in his place at that time; he was in Andalusia a while, and then he left again.

Q. Would you say that was the August account?

A. I would think it was.

Q. Do you know whether these red figures $998.73, in the column headed "items" has any significance?

A. No sir, I dont know, that it has any particular significance at all.

Mr. Taylor: That is all.

693 *Rerecross Examination by Mr. Horton.*

Q. I notice on the account which counsel just showed you, with Swift & Company, Birmingham, that there is no entries appearing upon here after August 30th, 1917; I will ask you if there was not a change in your bookkeeping method about that time?

A. The books were changed, but I dont know what date.

Q. And any other sales would appear upon another account?

A. Well, I feel quite sure it would.

Q. Or be kept in a different way?

A. But I dont know as a matter of fact.

Q. Wasnt it sometimes the custom to bill these goods to Swift & Company C. O. D. that is, with draft attached to the bill of lading?

A. I think some of the Norfolk shipments were made that way, I dont recall any others.

Mr. Horton: That is all.

Reredirect Examination by Mr. Taylor.

Q. When was that?

A. According to the best of my recollection all of the 694 shipments to Norfolk were made that way.

Q. When were they made?

A. The account there would be all the way I would have of telling, as shown by the entries on the book; January 27th to July 16th; May 10th, rather—that July 16th is when it was paid.

Q. Then your answer is when? From January 15th to when?

A. Well, I think all shipments that we made them were made bill of lading attached, draft to the bill of lading.

Q. What was the last date? You said from January 16th to July 16th?

A. Well, I looked at the wrong side. May 10th, I think, was the last shipment.

Mr. Taylor: That is all.

Examiner Sadler: Any other examination of the witness?

Mr. Taylor: No.

Mr. Horton: No.

Examiner Sadler: The witness will be excused.

(Witness excused.)

Examiner Salder: We will adjourn now, gentlemen.

Mr. Taylor: Let us see if we cant finish up tonight.

Examiner Sadler: All right, proceed then.

695 WALTER A. DAVIS, called as a witness, having been first duly sworn, testified as follows:

Direct Examination by Mr. Haycraft.

Q. Give your full name to the stenographer.

A. Walter A. Davis.

Q. What is the residence?

A. Andalusia.

Q. What is your business?

A. Bookkeeper.

Q. Where are you so employed now?

A. Just at this time I am employed by some turpentine interests that Mr. Dading is president of. He is president of the Sessons Grocery Company. I have been with them for the past two or three years.

Q. Were you ever employed by the Andalusia Packing Company?

A. Yes sir.

Q. When?

A. The whole period of time; I went there right at the latter part of May or the first of June, 1916; I don't remember the date exactly; it was along, I think probably a few
696 days after the first of June.

Q. In what capacity?

A. Bookkeeper.

Q. How long did you stay with them?

A. I stayed with them until the business was transferred.

Q. Until when?

A. I was with them until about the 20th of November, 1917.

Q. Until about the 20th of November?

A. 1917.

Q. Your duties continued the same all the time?

A. Well, not exactly, no. After Mr. Colt came down to take charge of the office—I had had charge of the office—I was cashier and looked after the books generally; after he came down he took active management of the office, and I acted in the capacity of Cashier.

Q. Before he came you were in charge of the office, were you?

A. Yes sir.

Q. Speak a little louder. Can you recall about when he came to the plant?

A. Well, not the exact date; it was about in July, some time, I think, 1917.

Q. Did you have a superior officer before that time?

697 A. Yes sir.

Q. Who was he?

A. When I first went over there, Mr. Conner was manager, and he did practically all the letter writing; I did all the other work in the office. The business grew, and we added a stenographer, and Mr. Conner kept doing the same kind of work, such as writing letters, and so forth, only a little more detail was added. This stenographer, he had a young man there, he took on some of it. Then when the ledger work grew so heavy that we had to add at different times men to work on the ledger, to work on the ledgers, I stayed on the window figured the pigs that were brought up from the stock pens, and so forth, and all remittances were turned over to me; I looked after them.

Q. Did you superintend the ledger work?

A. Yes sir.

Q. That is, those two men that were working on your ledgers were working under your supervision?

A. Yes sir.

Q. Then this was changed somewhat after Mr. Colt came there?

A. Well, Mr. Colt had charge of them entirely.

Q. Then you worked under him?

698 A. Yes sir, worked under him; I did the same work though, that I had done before and except that the other men in the office were responsible to him and not to me.

Q. You still supervised their accounts, did you?
A. Yes sir, we conferred together.
Q. Were there any changes in the accounting system while you were in charge of the books, before Mr. Colt came?
A. Before Mr. Colt came?
Q. Yes?
A. Yes sir, in—I cannot give the exact date, I could refer to these books—I think it was on October 14th that the change was made.
Q. What year?
A. '16.
Q. 1916?
A. Yes sir.
Q. What change was made at that time?
A. We had an auditor, Mr. McGinty, from Atlanta, came down and went over the books and checked them up and changed our system some; gave us a system of distributing our sales so that we could tell what—how much of each product was sold; we did not do that before.
699 Q. I will ask you to look at some of these exhibits, marked for identification A-14, A-15, A-16, A-17, A-18, A-19, and A-20, and I will ask you if these records which I have indicated to you were a part of the bookkeeping system used by the Andalusia Packing Company while you were in charge of those books, of their books?
A. Yes sir.
Q. Now, were there any changes made when Mr. Colt came, in the bookkeeping system?
A. No sir, except that they added from time to time more detail work, to give them a closer check on the stuff that was in the house, the products; they kept up with their killing, and the amount of salable stuff that came out of the live stuff killed. They went into that a good deal more thoroughly than we did.
Q. Did they make any more reports, were more reports made periodically than you had been making before?
A. Yes sir.
Q. Was there any difference in the character of those reports, any of them?
A. We had never made any reports, periodical reports, except when we would take stock, or something like that;
700 submit a trial balance at the end of the month to Mr. Henderson; he in turn would take it before the board of directors, or anyone else that required information. But

after that time they installed these different reports; a report to the Chicago office the result of the totals of those things, that I have mentioned, the amount of stuff we had killed, and the amount we had turned out of different products, the size of hogs, and so forth?

Q. Who prepared those reports?

A. Well, they had different people in the office, the stenographers, and they added several clerks.

Q. Did you work on any of them yourself?

A. No, very little work I ever did on those; I had all I could do at the window.

Q. Did you know the nature in a general way of those reports?

A. I might illustrate that to you.

Q. Yes, I would be glad to have you do it.

A. They would buy say ten or fifteen or twenty cattle of a certain grade, that they would class—they would mark those cattle, put tags on them, metal tags, and run them through the plant, and keep an acount of those particular cattle,

701 and when they were dressed and in the refrigerators, they would weigh them, and by checking them against their original weight and cost, and so forth, knew this class or that—I did not do any of that work, but I knew that it was done.

Q. And those reports, based upon this close check that you speak of, were sent to Chicago, as I understand it?

A. Well, I suppose they were; they were used there in the office in determining the prices, and so forth, to be paid for cattle, to see whether or not,—I suppose—

Q. Was there any difference made—

Mr. Horton: Wait a minute, please; I move to strike out the answer of the witness to the effect that he supposed these reports were sent to Chicago; unless he knows he should not state.

Examiner Sadler: The motion to strike will be sustained.

Q. (By Mr. Haycraft) Do you have any knowledge in that regard?

A. No, I could not say positively that they were sent.

Q. Ever heard any instructions given to send them out?

A. No.

Q. Did you ever see envelopes addressed to Swift & Company, Chicago, Illinois, containing such reports?

702 A. Not those reports, no.

Q. Put in the mail?

A. No sir.

Q. Were you ever informed by Mr. Colt the purpose of the preparation of these reports referred to, these total statements?

A. No.

Q. When did you discontinue furnishing the reports that you had been furnishing to Mr. Henderson?

A. At the time that Mr. Colt and Mr. Rogers came down.

Q. You have—you had no further responsibility in that regard after that time?

A. No sir.

Q. Were there any changes made in the form of remittance or billing of goods as they were sold after Mr. Colt came?

A. Ask that question, please sir, remittance or billing?

Q. Both.

Examiner Sadler: Just read him the question.

A. Together?

Q. Answer them separately, if you wish?

A. Well, the remittance for the products sold before that time had all come into our office there; that is, they came
703 into the office and we rendered them there.

Q. Explain the system—I will ask you, when you had charge of the office, how goods were billed out to customers, sold direct or through brokers, and how remittances were made, so we can get an idea of how the business was done?

A. If we sold—if a broker sold a certain number of pounds of any particular product, we loaded it and delivered it out to him; that was charged direct to his account; it was not billed that way; we made out a different record, and it did not go through the books, that is, through the regular ledgers; these accounts that we billed straight were remitted for and came into the office to us, and we in turn deposited them in the bank. After they came down and took charge, the account was charged to Chicago; these accounts that were not sold to Swift, either in Chicago or some of the branch places, we handled sometimes. The consignment accounts were billed—they furnished us with a duplicate invoice for the stuff sold, and then when that was paid for they remitted us, that is, they deposited—Allen put our deposit in the Birmingham Trust & Savings Company, I believe was the bank, and they would send us deposit slips for them. After that, all this stuff that was sent to Chicago or to the branch houses
704 was charged out to the Chicago office, and they did not remit to us directly.

Q. You mean they—

A. Well, what I mean by that is Swift & Company at Chicago; that did not apply to the brokerage accounts, you understand, like Allen's or Clarke's; they continued to remit to us in Andalusia.

Q. That applies only to the sales made to Swift's branches?

A. That is the idea, Swift's branches.

Q. Well, supposing you made sales to other trade, not to Swift's branches, after the change in ownership, after Mr. Colt came there, how would remittances be taken care of then?

A. To people other than Swift's branches?

Q. Yes sir, suppose you made a sale to John Jones, merchant in Andalusia, for instance, or merchant in Montgomery, either?

A. I understand. That was put on the ledgers, just run through, and the remittance came into the Andalusia office.

Q. And you would take care of it?

A. Yes sir.

Q. Then I understand you to say, the sales made to concerns or parties other than Swift & Company branches, were continued in the same way?

705 A. Exactly the same way.

Q. And so long as the brokers lasted, their transactions were made in the same way?

A. The same way, yes sir.

Q. Then the only change was in regard to the sales made to Swift & Company branches?

A. Yes sir.

Q. You left the Andalusia Packing Company in November, did I understand?

A. Yes sir.

Q. Were they selling through any brokers at that time?

A. Yes sir.

Q. They were?

A. I think they were selling—yes, I am sure—let me see now, I don't remember, either, I could not say positively that they were selling brokers at that time. Now, that in a way, passed, as I told you before, before the office force was increased you see—I more or less had supervision over that, and I was more familiar with it. My work after they came there—of course, if I had been asked immediately after that,

I could have told you about it, but I could not say positively now that they were.

706 Q. You were not quite so familiar with that end of it?
A. With that end of it, I don't know.

Examiner Sadler: Adjourn until 9:30 in the morning.

(Whereupon, at 6:00 o'clock P. M. March 11th, 1921, an adjournment was taken until 9:30 A. M. of the following day, March 12, 1921.)

---

707 WALTER A. DAVIS, called as a witness for the Commission at Birmingham, Alabama, on March 11, 1921, after having been first duly sworn testified in substance as follows:

(Copy testimony verbatim; Pages 1094-1105 when the hearing was adjourned at 6 P. M.)

MR. DAVIS was recalled to the stand on March 12, 1921 and testified in substance as follows: (pp. 1105-1149)

That he identified Commission's Exhibits A-15 and A-18 for identification as ledgers of the Andalusia Packing Company covering the accounts of J. W. Clark & Co. in Atlanta, Ga., and elsewhere. From an examination of this record book named the towns where customers of the Andalusia Packing Company were located and whose accounts appear in the ledger before July 24, 1917, and they are 19 towns containing such accounts in Georgia; 41 towns in Florida, and 115 towns in Alabama; that he also identified Commission's Exhibit A-17 for identification as the general ledger containing customers accounts with the Andalusia Packing Company located in Birmingham, Alabama during 1916 and 1917.

709 BEFORE THE FEDERAL TRADE COMMISSION

Federal Trade Commission,
Petitioner,
vs.
Swift & Company,
Defendant
} Docket No. 453.

Jacksonville, Fla., March 21, 1921.

9:00 o'clock A. M.

Before:
C. T. Sadler, Examiner.

Met pursuant to notice.

Appearances:

A. N. Taylor and D. F. Haycraft, c/o Federal Trade Commission, Washington, D. C., Appearing for the Federal Trade Commission.

A. H., and Henry Veeder, James M. Sheean and Frank L. Horton, Chicago, Ill., Appearing for Swift & Company.

710 MIKLE SCHEMER, called as a wifness for the Commission at Jacksonville, Florida, on March 21, 1921, after having been first duly sworn testified in substance as follows:

(Pages 1238-1250)

That his business is retail meat market in Jacksonville, Florida; that he handles western and Florida pork, beef and everything in the meat line and has been engaged in such business for the past thirteen years; that he bought fresh pork, hams, shoulder loins, and smoked hams, bacon and also lard packed by the Moultrie Packing Company; that Sam Smith represented the Moultrie Packing Company and that he began buying those products from Smith the first day Smith sold them and continued as long as Smith was handling Moultrie products; that this period of time was some time in 1916-17; that during the same period of time he was solicited by and bought from Swift & Co.; that he purchased western pork, shoulder and pork loins from Swift & Co.; that Swift &

Co. called upon him and tried to sell him smoked hams and bacon as well as fresh pork products before he began to buy and during the time he bought from Sam Smith; that Sam Smith stopped selling the Moultrie products and told him that Swift & Co. had bought the Moultrie Packing Company; that when Sam Smith stopped selling the Moultrie pork he bought western pork from other packers in Jacksonville including Swift & Co., and later Sam Smith began to represent the Tifton Co.; that he again bought southern pork from Sam Smith; that during the time he was selling Moultrie products he bought most of his meat from him.

711 Upon being recalled witness testified on March 23, 1922 (pages 1579-1584) in substance as follows:

That the last time Sam Smith called on him selling Moultrie Packing Company products he showed him a price-list that had prices higher than he had been paying for such products, that he remembered particularly the item of pork tongue that he had been paying 12c per lb., but listed on price-list 25c per lb.; that he tried to get pork tongues from Swift & Co. but could not get them.

712 A. H. MILLER, called as a witness, having been first duly sworn, testified as follows:

Direct Examination by Mr. Taylor.

Q. What is your full name?
A. A. H. Miller.
Q. In what business are you now?
A. Fresh meat.
Q. Retail and wholesale?
A. Retail and wholesale.
Q. Where is your place of business?
A. 316 West Forsyth Street.
Q. How long have you been engaged in that line of business at that place?
A. 12 years.
Q. In what name is the business done?
A. Jefferson Market, Incorporated.
Q. What is your connection with the firm of the Jefferson Market?
A. Vice President.
Q. Is it a corporation?

A. Yes sir.
713 Q. Who buys the meat there?
A. I do.
Q. Were you the buyer in 1916 and 1917?
A. Yes sir.
Q. Now along about that time did the salesmen for Swift & Company call upon you from time to time?
A. Yes sir, they generally called once a day.
Q. Were they at that time selling pork products?
A. Yes sir, they sold pork—all packing house products.
Q. Among the products can you state what they were offering for sale at that time?
A. They were offering a full line of packing house products. Pork shoulder and loins.
Q. Hams?
A. At that time I don't remember whether they handled ham or not, they handled shoulder.
Q. How about smoked meat products?
A. Oh, they handled everything in the smoked meat line.
Q. How about what is referred to as pork trimmings?
A. Pork trimmings, well that is something I very seldom buy and consequently I didn't get the prices.
Q. Do you know whether or not at that time Swift & Company were offering pork trimmings for sale?
714 A. No, I do not.
Q. How about lard?
A. Lard—why that is handled on the other side and as I have nothing to do with it I wouldn't know about the lard.
Q. Now that condition continued how long? That is, Swift & Company's representative here offering these products to you in your market?
A. Why Swift & Comany has handled pork products for quite a while, I couldn't just say how long—seven or eight years.
Q. Down to the present time?
A. Yes sir.
Q. You were required by subpoena served upon you to produce the bills and statements of and records showing the amount and kinds of the meat products purchased from the Moultrie Packing House during the year 1916 and 1917. Did you produce anything as required by this subpoena?
A. I have the records of my purchases.
Q. Will you state where this record came from?
A. I got it out of the file in the office.

Q. Has it been in that file since it was made?
A. It has been in that file ever since it was put up.
Q. Who made that record?
715 A. E. H. Morris.
Q. Who is E. H. Morris?
A. Secretary and treasurer of the company.
Q. Is that a correct statement?
A. Absolutely correct—yes.
Mr. Taylor: I offer in evidence the record which is submitted by Mr. Miller.
Mr. Horton: We object on the ground it is not made by the witness, not properly identified, and it is not competent to the issues in this case.
The Examiner: The objection will be noted and the paper will be received in evidence and marked Commission's Exhibit No. 116.
Q. Now Mr. Miller, does every item appearing on this sheet, No. 116 represent meat products bought from the Moultrie Packing Company?
A. Yes sir.
Mr. Horton: I object to that, Mr. Miller is not the bookkeeper.
The Examiner: The objection will be noted.
Q. Now what are these debit items on this sheet?
A. It shows practically the pork cuts.
716 Q. Mr. Miller I call your attention to the fact that the first entry on this sheet, Exhibit No. 116 is an entry of date of December 15, 1916, and on the credit side appears the word 'For'd', will you state what that indicates?
A. I don't know unless it included another sheet of that.
Q. There must be another sheet prior to 1916?
A. Yes sir.
Q. Is that the way you want your answer to appear?
A. Yes sir.
Q. Will you endeavor to locate the earlier sheet and if you can find it bring it here?
A. Yes sir.
Q. Mr. Miller, about how much pork products were you selling during this period—December 15th 1916 to September 27th, 1917?
Mr. Horton: We object on the ground it is irrelevant and immaterial.
The Examiner: The objection will be noted.
A. Well, it depends upon the seasons. In winter we han-

dled more than we did in Summer. It would run anywhere from 1000 to 4000 or 5000 pounds.

Q. For how long a period?

A. Sometimes we have as much as 5000 and then

717 again as small as 500.

Q. Over how long a period?

A. That would be a week.

Q. Now do you mean by that in summer time you would buy as little as 500 pounds a week and in winter you would buy as much as 5000 pounds a week?

A. Well, at times we would use more Western meat and at times more Southern pork.

Q. What I want to know was that intended to cover your total volume of pork?

A. No, just Southern pork.

Q. I referred to the total volume of pork handled by you?

A. Well, I used about in the neighborhood of 4000 of all kinds in a week.

Q. Is that an average throughout the year, do you mean?

A. Yes, sir.

Q. And how will that run in summer—the lowest?

A. In summer time it would run about 2500 pounds.

Q. And in winter?

A. 5000.

Q. You are now talking about the period of 1916 and 1917?

718 A. Yes, sir.

Q. In giving these figures?

A. Yes sir.

Q. Now would it be a fair conclusion to draw from your answer as to the total quantities of pork products of all kinds, you were selling, and the total quantities of Moultrie pork that you have testified you have sold, that in winter time your principal selling of pork was Moultrie pork, and in summer time you sold more western pork than you did of southern pork?

Mr. Horton: I object to the question on the ground he asks the witness for an estimation and furthermore it is putting words in the witness' mouth to which he has not testified, and that it is a leading question, also that it is incompetent irrelevant and immaterial and not within the issues here.

The Examiner: The objection will be noted.

A. Well, we use a good deal more pork in winter time than we would in summer time.

Q. That is, in proportion to the total amount of pork, do you mean?

A. Yes, sir.

719 Q. You are still testifying as to the conditions in 1916 and 1917?

A. Yes sir.

Q. Now during this period of 1916 and 1917 from whom did you buy the Southern pork that you handled?

A. Sam Smith, a broker.

Q. And Sam Smith was selling Southern pork from what packing company?

A. The Moultrie Packing Company.

Q. Was all that Southern pork handled during this period from Sam Smith Southern pork?

A. Yes, sir.

Q. And the Western pork, where did you get that?

A. Various places, scattered around, divided it among all of them.

Q. Would it be possible for you to make an approximate estimate of the proportion of Moultrie pork you handled during that period and the proportion you obtained from all these other sources?

A. No sir.

Q. Would you be able to say whether the Moultrie pork you handled exceeded in quantity all the pork you handled from other places?

720 Mr. Horton: I object to that, the witness says it would be impossible for him to do so, it involves an estimate.

The Examiner: The objection will be noted.

A. Well, I couldn't very well say.

Q. Back in the winter time,—the fresh meat you handled in the winter—

A. In the winter time they use the biggest portion of the fresh meat.

Q. In the winter time they use the biggest portion of the fresh meat?

A. Yes, sir, during the winter months—about three to one.

Q. Would it have run higher than that?

A. Oh, yes, there have been weeks that I use nothing else.

Q. That was in the winter?

A. Yes, sir.

Q. How about the summer?

A. When they sent it refrigerated it came all right, when it arrived by express we had trouble with it a good deal of the time, but with refrigerator cars it came all right.

Q. What pork do you refer to now, in that?

A. The Moultrie Packing Company pork.

721 Q. Now, is it proper to understand from that answer, Mr. Miller, to state that the proportion of Moultrie pork used would depend upon the way in which you could get it?

A. That had a whole lot to do with it, yes, sir.

Q. Now, about what would be the proportion of the pork you handled in summer time which came from the Moultrie Company and all other sources? I refer to fresh pork.

Mr. Horton: I object to that on the ground that the witness is asked to state his opinion, and on the further ground it is not the best evidence, and on the ground that so long a period of time has elapsed that opinion evidence is incompetent here, and on the further ground it is immaterial and irrelevant.

The Examiner: The objection will be noted.

A. That would be a very hard matter to say because some weeks that would be a whole lot more than others and to give you anyyhere like an accurate amount,—I wouldn't be able to do it.

Q. Did you buy during the summer months the fresh pork?

A. No, about five months in the vear and in the seven months we buy a good deal more Western than Southern pork.

722 Q. Do your books show what you buy of Western pork during the same period?

A. I don't know if they do, Mr. Morris might have them.

Q. Will you ask Mr. Morris to look up and ascertain the bills of the Western pork bought as well as the fresh pork as shown by this Exhibit No. 116?

A. Yes, sir.

Q. Will you also ask Mr. Morris to please bring bills of the Moultrie account so it would be possible to compare them?

A. Yes, sir.

Q. How about beef from the Moultrie Packing Company, did you handle much of that?

A. I never bought many pieces of beef—never bought any beef from the Moultrie Packing Company.

Q. Do you recollect that a time arrived when Smith ceased to call upon you for the Moultrie Packing Product?

A. No, I don't know the date.

Q. Well, do youu recall that he did cease to come?

A. Yes, sir.

Q. I hand you Exhibit No. 116 and call your attention to the last entry on the credit side and I will ask you if that refreshes your memory in any way as to the time or about the last time you bought from him?

723 A. As far as I know that is the last that we bought anything from him.

Q. What is that date?

A. 17th of September 1917.

Q. Did you have any conversation with Smith at this time or any time previous as to his leasing to represent the Moultrie Packing Company?

A. Well, the only thing I remember is that he said Swift & Company had bought out the Moultrie Packing Company.

Mr. Horton: We object and move to strike the answer of the witness on the ground it is hearsay.

The Examiner: The motion to strike will be noted.

Q. As nearly as you recall with relation to the date of this last purchase when was it that Mr. Smith made this statement to you?

Mr. Horton: We object to the question on the ground that it is hearsay and would not be competent.

The Examiner: The objection will be noted.

A. Well, as near as I can remember he just came in and said that he had been notified that Swift had bought them out and he didn't have no more job,—I don't remember the exact date.

724 Q. Are those the exact words he used as near as you can remember?

A. Yes sir.

Mr. Horton: I object to the answer and move to strike it out.

The Examiner: The objection will be noted.

Mr. Taylor: Which answer is that?

Mr. Horton: All of that with regard to that conversation.

Mr. Taylor: On the ground simply that it is hearsay?

Mr. Horton: On the ground it is hearsay, on the ground

it is incompetent, and on the ground that it is irrelevant and immaterial.

Mr. Taylor: As to this objection, Mr. Examiner, I will say I think if we were seeking to prove that Swift & Company was buying Moultrie Packing Company out it would be a proper objection, but that is not the purpose.

Mr. Horton: What is the purpose?

Mr. Taylor: The purpose is to show why the broker, Sam Smith, ceased to sell any goods of the Moultrie Packing Company.

Mr. Horton: I further object on the ground that
725 Counsel has shown by his statement that it is clearly incompetent testimony.

Q. Now going back to the period of 1917 after having this report from San Smith, where did you get your meat products?

A. I bought from different packers in town, and I bought some from the Chipley Packing Company.

Q. Did you ever buy any more from Sam Smith, though?

A. I did after he had the Tifton account, and Macon.

Q. Did you buy very much?

A. I didn't—I can't remember just how much I did buy from Tifton.

Q. Do you know whether the proportion of the pork handled by you bought through San Smith from the Tifton plant is as great as the amount bought from the Moultrie plant during the time you did buy?

Mr. Horton: I object, that is wholly irrelevant and immaterial.

The Examiner: The objection will be noted.

A. No, at that time I was dividing the order between the Chipley Packing Company and Tifton.

Q. And the product of the Chipley Packing Company and Tifton together represent the bulk of your fresh pork sales?

A. Yes sir.

726 Q. Did that continue?

A. Well, Tifton didn't continue so long but Macon opened up.

Q. Do you know what happened with regard to Tifton?

Mr. Horton: That is objected to on the ground it is irrelevant and immaterial.

The Examiner: The objection will be noted.

A. Only by hearsay. I heard Armour & Company had bought out Tifton.

Mr. Horton: That is objected to on the ground it is hearsay, and I move to strike the testimony.

The Examiner: The motion to strike is sustained.

Mr. Taylor: We are simply trying to paint a picture of the market here, showing conditions as they existed at the time, and why these people could not buy Southern pork.

Mr. Horton: I object on the ground the picture is not properly painted. The artist is not a good artist.

Q. Now going back to the time when you heard some statement in regard to the Tifton plant, was that about the time that Smith stopped selling the product of the—

Mr. Horton: I object on the ground the witness has not shown that any statement was made in regard to Tifton.

727 The Examiner: The objection will be noted.

Mr. Horton: The answer was stricken out.

Mr. Taylor: All right, I will withdraw the question.

Q. Mr. Miller, did you hear some statement made as to what had been done to the Tifton plant?

Mr. Horton: I object to that, the Tifton plant has nothing to do with this case at all.

Mr. Taylor: The objection will be noted.

A. Why, the Tifton plant, I heard that Armour had bought it. They were not shipping down this way,—they were shipping to other points.

Mr. Horton: I move to strike the answer of the witness on the ground that it is hearsay.

Mr. Taylor: Mr. Examiner, before you rule upon that I would like to say that I feel that that answer should stay on the record as a part of the picture of the market at that time. It throws some light upon the issues in this case and for that reason serves a useful purpose.

Mr. Horton: It does not throw any light on the issues and complaint in this case.

Mr. Taylor: It shows the conditions of the market.

The Examiner: The motion to strike will be noted.

728 Q. Is Sam Smith still selling the product of the Tifton plant?

A. No, sir.

Q. When was it he stopped?

A. That I couldn't say, I don't recollect.

Q. With reference to the statement which was made to

you about Armour buying out the plant, when was it he stopped?

Mr. Horton: That is objected to on the ground it has nothing to do with the issues here.

The Examiner: The objection will be noted.

Q. Do you remember whether it was before, or after hearing that statement, that Sam Smith quit selling?

A. It was after..

Q. Can you state approximately how long after?

A. No, sir.

Q. Was it as much as six months after?

A. No, sir, I couldn't say.

Mr. Horton: May it be understood that we object to this entire line of testimony upon each and every ground previously urged?

The Examiner: Yes.

729 Q. Was it as much as three months after?

A. I couldn't say, anything about the time.

Q. Then it was sometime between the time you heard the statement and six months after to the best of your recollection?

A. That is my knowledge.

Q. And that is as near as you can locate the time when Sam Smith stopped selling the product of the Tifton plant?

A. Yes, sir.

Q. Are you buying Chipley product now?

A. No, sir, the Chipley plant is not running now.

Mr. Horton: The objection to this line of testimony still stands?

The Examiner: Yes.

A. I heard they were in Bankruptcy but I don't know whether that is official or not.

Q. Are you getting any Macon pork now?

A. No sir.

Q. Do you know what happened there?

A. The plant is closed down.

730 Q. Do you know why?

A. No, sir.

Q. Are you getting any Southern pork now?

A. Yes, sir.

Q. From whom do you get it?

A. Armour & Company and a little from Swift & Company.

Q. Do you buy much of it now?

A. Quite a little, yes.

Q. Do you know where the Swift & Company pork comes from?

A. Well, I don't know where it comes from, but if I looked at the abattoir number I could tell. I have had some Moultrie pork here recently, I don't know where it was bought.

Q. But some of it was Moultrie pork, that you noticed?

A. Yes, sir.

Q. How long has that condition existed?

A. What condition?

Q. That you received Moultrie pork?

A. Well, I hadn't bought Moultrie pork from Swift & Company until recently, but they have had it here.

731 Q. Did they offer to sell it to you?

A. Yes, sir.

Q. Now going back to the time when Sam Smith stopped selling that Moultrie pork, do you recall whether Swift & Company offered you Moultrie pork at that time?

A. No, sir, I don't.

Q. Can you recall the earliest time when Moultrie pork was offered you by Swift & Company?

A. No, sir.

Q. Do I understand you correctly, that after Sam Smith ceased selling Moultrie pork you were able to get local pork elsewhere?

A. Yes, sir.

Q. By that do you mean soft pork?

A. Yes, sir.

Q. And is it correct to understand your answer that you continued to buy soft pork from local plants as long as you were able to get it from them?

A. Yes, sir.

Mr. Horton: By local plants what do you mean?

A. Independent plants—Chipley, Macon, Tifton.

Q. They were known as independent plants?

732 A. Yes, sir.

Q. And after these plants ceased to be independent plants where did you get your soft pork from?

A. Soft pork,—got it from Armour—right here in Jacksonville.

Q. After that where did you get it, after the local and independent plants ceased to operate?

A. This is the first year there has not been a local plant.

Q. Have you been buying from Swift & Company all this year?

A. Have been buying stuff from Swift & Company right along but very little pork.

Q. I refer to soft pork?

A. Very little soft pork.

Q. Now how long have you been buying soft pork from Swift & Company?

A. Well, I haven't bought but very little of any description.

Q. You are buying some soft pork from some concerns I believe you say?

A. I bought a little last week, but very little. I bought some pork hams.

733 *Cross-Examination by Mr. Horton.*

Q. Mr. Miller, you said when you stopped buying from Mr. Smith that you bought from various places—that you bought from "all of them." Please explain your answer, what you mean by "them"?

A. Armour & Company, Chipley, Macon, and Tifton—soft pork.

Q. Were they all represented here in town?

A. All represented.

Q. Did you buy from Morris & Company, also?

A. No sir, they didn't have any soft pork.

Q. Did you buy any Western pork there?

A. On rare occasions I bought Western pork.

Q. They had a representative here in this City?

A. Yes, sir.

Q. Cudahy & Company had a representative here?

A. Yes sir. I bought from Cudahy.

Q. They were handling a full packing house line?

A. Yes sir.

Q. And Wilson & Company and their predecessors in business, Sulzberger?

A. We never bought from Sulzberger but we have

734 bought from Wilson.

Q. They are represented here—have a full packing house line?

A. Yes, sir.

Q. Kingan's Company?
A. Yes, sir.
Q. Full packing house lines?
A. Yes, sir.
Q. Smith & Richadson?
A. We don't buy from them, they are competitors.
Q. But they are represented here, carrying a full line of meat products, fresh and salt?
A. Yes, sir.
Q. The Jacksonville Cattle Company?
A. We don't buy anything from them.
Q. Wilson Slaughter Company?
A. Yes, sir.
Q. They have been here sometime?
A. Yes, sir.
Q. Prior to 1916?
A. Yes, sir.
Q. And they have been slaughtering cattle and hogs?
735 A. They handle beef in the quarter, but they don't cut up any hogs.
Q. Armour & Company have a slaughter place here?
A. Yes, sir.
Q. Numerous brokers have accounts for the various packers, handle packing house lines?
A. Yes. sir.
Q. Do you buy anything from them?
A. Only smoked meats.
Mr. Taylor: Now we wish to object to the last question and move to strike the answer; there is no foundation layed for the testimony.
Mr. Horton: If the Court please, I am asking the witness to explain his answer. He said he bought from the various places, and he said "I buy from all of them." I am asking who he meant by that.
The Examiner: The objection will be noted.
Q. Now Brown-Marchessean representing Jacob Dold Packing Company, did you buy from them?
A. No, sir, I never have bought from them at all.
Q. They are represented here?
A. Yes, sir.
Q. P. A. Degnan?
736 A. Yes, sir.
Q. He represents Jacob P. Shaffer of Baltimore, does he not?

A. Yes, sir.
Q. Did you buy from him?
A. Yes, sir.
Q. He has been in business here for sometime?
A. Yes, sir.
Q. Since 1916 or 1917?
A. I don't know whether he has been selling that stuff right along or not—for the last two or three years he has.
Q. Loyd & Gray, representing the Indiana Grocery Company?
A. No, sir.
Q. George A. Hormel, Boston, Minnesota, did you buy from him?
A. No, sir.
Q. He does business here?
A. Yes, sir.
Q. Harman Bros., of Jacksonville, Florida, representing Klink of Buffalo, New York and Jacob Dold Packing Company; the Hammond Standish Company of Chicago, Illinois, and Detroit Michigan; George A. Horner & Company of Boston, Minnesota,—have you bought any from them?
737 A. No, sir.
Q. Are they represented here?
A. Yes, sir.
Q. And have been for a number of years?
A. Yes, sir.
Q. Have you bought anything from them?
A. No, sir.
Q. The Hulsey Bessent Company representing the Allied Backers and various other independent packers, have you bought anything from them?
A. No, sir.
Q. They are represented here are they, they are doing business here?
A. A Packing house here by the name of Lattimer,—I bought some stuff from him. He was from the Macon plant —they have closed out.
Q. O. C. Holland?
Mr. Taylor: Mr. Examiner, I object to the scope of these questions as being outside the scope of the direct examination.
Mr. Horton: Do I understand the scope of your direct examination is strictly limited to pork products?

Mr. Taylor: Yes sir. I asked one witness this
738 morning, whether it was Mr. Miller or the witness previous to him, I don't remember, if he bought any beef from Moultrie & Company.

Mr. Horton: It is understood we may strike out everything else but pork products?

Mr. Taylor: In the direct examination?

Mr. Horton: Yes.

Mr. Taylor: No, I consent to strike out nothing.

The Examiner: The objection will be noted.

Q. O. C. Holland & Company—

Mr. Taylor: Do I understand I may have the same objection to all these questions?

The Examiner: Yes.

Q. —Montgomery, Alabama, do they not quote and sell the Jacksonville trade here?

A. They were have sold me.

Q. Matley Bros., have you bought anything from them?

A. No, sir.

Q. T. C. Saussy & Company, representing Rath Packing Company, Waterloo, Iowa; the Wilson Provision Company of Peoria, Illinois; John P. Squires & Company of Boston, Massachusetts, have you bought anything from them?

739 Q. Do you know such a concern is in business here in this City?

A. Yes, sir.

Q. And has been for the last four or five years?

A. Yes, sir.

Q. They sell packing house products?

A. I think they do,—they never quoted me.

Q. Savage & Radavata,—of Jacksonville, representing and sell for the International Provision Company of Brooklyn New York and other places, have you ever bought from them?

A. No, sir.

Q. Have they quoted you?

A. No, sir.

Q. Do you know whether or not they are in business here?

A. No, sir.

Q. Since the independent packing companies have ceased to operate have they ever solicited your business?

A. Yes, sir.

Q. Have you bought anything from them?

A. Yes, sir.

Q. Pork products?

A. No, sir.

Q. Have they been in business here for some years?

740 A. No, they just got on this market here recently and I have bought some smoked meat and sausage from them.

Q. That is smoked pork?

A. Yes sir.

Q. C. E. Smith & Company representing the Independent Packing Company, Chicago, Illinois, have you ever bought from them?

A. No, sir.

Q. They sell here in this market, do they not?

A. Well, I have never met up with them.

Q. J. W. Snyder & Company representing the Cleveland Packing Company, have you bought from them?

A. No, sir.

Q. Wilson & Parker representing the North Packing & Provision Company, Boston Massachusetts, have you ever bought anything from them?

A. No sir.

Q. O. H. Wright & Company of Atlanta Georgia, have you ever bought anything from them?

A. No sir.

Q. C. W. Zarring, Independent Company in Jacksonville, Florida, representing Comstock & Company, have you ever bought anything from them?

A. No sir.

741 Q. Now, I believe you stated you were buying most of your Southern pork from Armour & Company?

A. Yes, sir.

Q. Did you get it from the local plant?

A. Delivered by them direct from the local plant.

Q. Why did you buy from Armour & Company?

A. Armour & Company has got it about a dollar and a half cheaper price than Swift has.

Q. Had Swift & Company sold you cheaper you had just as soon give them your business?

A. Just as soon.

Q. Do you know why they differed in price ?

A. I don't know why, they say it is in transportation. Armour & Company hauls by truck from the plant and Swift & Company has got to hire refrigerator cars.

Mr. Taylor: I move to strike out that answer.

The Examiner: The motion to strike will be noted.

Q. I believe you have stated you bought from what you have termed to be the Independent packing plants? I think you meant by that answer such plants as Moultrie, Chipley and Macon, and did I understand you bought from any
742 person—from Armour, Swift, and Morris?

Mr. Taylor: I object to the question, it shows clearly what.

The Examiner: The objection will be noted.

A. Not particularly because they had a better price—

Q. That is they sold soft pork cheaper?

A. Yes, sir.

Q. I believe that two or three years ago Swift & Company begun to solicit the hotel and restaurant trade in Jacksonville, is that right?

A. Yes, sir.

Q. I believe you objected to that?

A. Yes, sir.

Mr. Taylor: Now, Mr. Examiner, I move to strike out both of those last answers, there is nothing in the direct examination that would call for this or make this proper cross examination, it is wholly incompetent, irrelevant and immaterial and improper on every ground.

The Examiner: The objection and the motion to strike will be noted.

Q. And isn't it true that you have given preference to other packers where a question of price made it feasible to do so?

743 A. Yes, sir.

Mr. Taylor: May it be understood that I have an objection to all these questions along this line of cross examination?

The Examiner: Yes.

Mr. Horton: That is all.

Redirect Examination by Mr. Taylor.

Q. Mr. Miller, what class of trade does the Smith, Richardson Company run?

A. Hotels and restaurant.

Q. They specialized in hotel and restaurant trade, did they not?

A. Yes, sir.

Q. Do you know whether or not Armour & Company held the principal stock in Smith, Richardson?

A. That is what I have heard, I don't know.

Q. I believe you testified in answer to one of Mr. Horton's questions on cross examination that you preferred to buy salt pork from the local packers rather than the big packers,—did the local packers have a better price?

A. They always had a better price, yes, sir.

744 Q. Now, did that condition continue,—up until what time did it continue?

A. Well, I couldn't give you any date on that.

Q. As long as the local packers were operating independently of the large packers?

A. Yes, sir.

Q. Mr. Miller, from what source are you able at the present time to buy soft pork?

A. Armour & Company and Swift & Company.

Q. Who else?

A. That is all.

Q. And since that condition has prevailed is it that the prices have advanced on soft pork?

Mr. Horton: I object to that.

Mr. Taylor: I mean compared with the price on Western pork.

Mr. Horton: I object to that on the ground that it is improper redirect examination; on the ground no particular time is specified; on the ground that it is opinion evidence and on the ground that it is not competent.

The Examiner: The objection will be noted.

A. Well, there has not been a local packing company

745 operating for over a year and I would not have any comparison.

Q. I mean the comparison of the Western pork and the soft pork?

A. Just about a cent a pound difference.

Q. During the time Sam Smith was representing Moultrie Packing Company how much difference was there between Moultrie Packing Company product and the Western pork?

Mr. Horton: I object to that upon the grounds: first, at that time the conditions were entirely different. While the war was on there was a demand for all these products and the Northern packers were so crowded with orders they were not able to fill and it is a wholly different condition at this time.

The Examiner: The objection will be noted.

Q. How much difference was there?

A. Some weeks a great difference, it has been as high as five cents.

Q. About how did it run?

Mr. Horton: We object to this upon the same grounds previously urged.

The Examiner: The objection will be noted.

746 Mr. Horton: May my objections continue to all the questions under this line of testimony?

The Examiner: Yes.

Q. Take for instance pork loins, what would be the difference?

A. In price?

Q. Yes?

A. Anywhere from three to five cents.

Q. Fresh hams?

A. Well at that time the packers were not handling any fresh hams in this market at all.

Q. Fresh shoulders?

A. Fresh shoulders,—handled a few—they didn't cut them up, it would be just pigs—didn't get the cuts.

Q. When was it this happened that the packers began selling hams and fresh shoulders on this market?

A. Well, they began shortly after Armour opened this plant out here.

Q. Can you fix that date?

A. No, sir.

Q. Approximately—can you tell the year?

A. No, I don't remember the year right now.

747 Q. Was it before or after the Moultrie Packing Company began to operate?

A. It was around about the time—the same time. I think the Moultrie Packing Company was the first of the independent packers, if I am not mistaken.

Q. So that it was about that time when the Moultrie Packing Company was marketing its products, independent products, at the time the big packers began to bring in the hams and shoulders?

A. They never did bring in any Western hams and shoulders.

Q. Now what was the differential on pigs.

A. Pigs,—that is something I never bought—never did handle.

Q. How about lard?

Mr. Horton: The Examiner understands that our objection continues to all these questions?

The Examiner: Yes.

A. Lard—I didn't buy lard.

Q. How about smoked meat products, hams and shoulders?

A. I used all Western smoked products.

748 Q. Did you do that at that time, 1916 and 1917?

A. Yes, sir, I used it in mixed lots,—it was not satisfactory.

Q. Now after Mr. Smith ceased to sell any local pork product here what was the differential on pork loin between the Western pork and the soft pork?

A. Well, I don't know,—there was hardly a time we didn't have local soft pork because Tifton and Macon and Chipley were selling.

Q. After they ceased to do business, after Armour acquired Chipley and Tifton and Macon ceased?

A. Well, this is the first season Tifton and Macon have not operated.

Q. Well?

A. The local market has changed frequently, I would not have any comparison.

Mr. Horton: I object to this as improper redirect examination.

The Examiner: The objection will be noted.

Mr. Horton: Now it is understood that I am going to have the opportunity to cross examine this witness on this testimony?

749 The Examiner: Yes.

Q. You are buying soft pork loins and Western pork loins today, I believe you testified?

A. Yes sir.

Q. How much difference is there in the price?

Mr. Horton: I object on the grounds it makes a vast amount of difference as to the size of the loins and what particular cut of meat you are talking about.

Q. Take the quarter of loin similar, soft loins and Western pork loins of similar size.

Mr. Horton: We object on the grounds previously stated.

The Examiner: The objection will be noted.

Mr. Horton: The objection is not specific enough, there are different cuts.

The Examiner: The objection will be noted.

A. Well, the difference between the Western pork and

the soft pork,—that is usually about three cents a pound difference in it.

Q. And in 1917 it was what,—three to five you say?

A. About three to five.

Q. I believe you have testified that Swift is higher
750 than Armour?

A. Yes, sir.

Q. How much?

A. Around a dollar a hundred.

Q. Around a dollar a hundred?

A. Yes, sir.

Q. So that makes Swift's differential about two cents a pound?

Mr. Horton: No, it makes it one cent more if it was higher.

Mr. Taylor: If it takes it off of the soft pork it brings it closer together.

Q. Now, Mr. Miller, Mr. Horton has asked you on cross examination about a number of different concerns which have at some time or another been selling packing house products in this market; I will ask you to direct your attention to the soft pork product of the character known as Moultrie Packing House, and I will ask you if Morris & Company in 1917 sold any of that class of pork?

A. I bought from Chipley, I think.

Q. Now will you fix the time when Chipley Packing House came into existence?

A. I don't remember it.

751 Q. If I should tell you it was not until 1918 when Chipley came into the market would that tend to modify your answer in any way, assuming that it was correct?

A. Chipley came in before Moultrie went out, as I remember.

Q. So, at that time Moultrie was selling soft pork as an independent company was Morris & Company selling soft pork?

A. I don't know,—they bought a good deal of pork from Smith and also—

Mr. Horton: I am going to object on the grounds previously urged and move to strike the answer.

The Examiner: The objection and the motion to strike will be noted.

Q. The Smith you speak of was Sam Smith, broker for the Moultrie Packing Company and handling their goods?

A. Yes, sir.
Q. If he was selling soft pork it would be Moultrie pork?
A. Yes, sir.
Q. Aside from that do you know of any soft pork that was being sold by Morris & Company in 1916, 1917?
A. I do not.
752 Q. Cudahy & Company, were they selling soft pork?
A. All the packers, more or less, bought some soft pork.
Q. From where?
A. Chipley and Macon.
Q. But Chipley and Macon are not in existence at that time?
A. At the time Moultrie went out Smith sold them too, I think,—more or less, I know he sold Cudahy and Morris.
Q. Do you know if Cudahy was selling any soft pork other than what they bought through Sam Smith?
A. No, sir.
Q. Was Wilson & Company selling any—are they selling any now?
A. No. sir.
Q. Wilson & Company selling any soft pork at that time. 1916 to September 1917 other than what you were buying through Sam Smith?
Mr. Horton: I object to this entire line of testimony upon the ground that it is not competent to prove by this witness facts beyond his knowledge. I understand that this
753 witness doesn't pretend to know all the transactions of the several companies that he had mentioned.
Mr. Taylor: Mr. Examiner, this is very refreshing, to see Counsel for Respondent objecting to bringing out some of the evidence which he brought out on cross examination—the very answer which he brought out on cross examination. I submit that if his questons were proper on cross mine are equally so.
The Examiner: The objection will be noted.
A. I don't know.
Q. Did you testify that Wilson & Company were soliciting you to sell you goods during that time?
A. Yes sir.
Q. Did they endeavor to sell you any soft pork other than Moultrie pork?
A. They never offered me any soft pork.

Q. Did you know of any soft pork they were actually handling?

A. No sir.

Q. Are they handling soft pork now?

A. Not that I know of.

Q. How about Kiggan & Company—during that time
754 were they selling soft pork?

A. Not that I know of.

Q. Did they offer to sell you any soft pork?

A. No, sir.

Q. Did they offer to sell you other kinds of meat, other kinds of pork at that time?

A. Yes, sir.

Q. Is Kingan & Company selling soft pork at the present time?

A. No, not that I know of.

Q. Did they ever sell it so far as you know?

A. I don't know.

Q. Did they ever offer you any?

A. No sir.

Q. How about the Jacksonville Cattle Company, did they offer you any soft pork during the time Sam Smith was selling soft pork?

A. No, sir, they didn't cut up pork at all.

Q. Now how about these numerous packers Mr. Horton asked you about on cross examination, did any of them offer to sell you soft pork?

A. No, sir.

755 Q. Do you know of anybody else that any of them ever offered to sell soft pork to?

A. No, sir.

Q. How about Brown & Meacham representing Jacob Dold Company, did they ever offer to sell you any soft pork?

A. No, sir.

Q. At any time?

A. No, sir.

Q. Do you know of anybody that they ever did offer to sell soft pork to?

A. No, sir.

Q. P. A. Degnan, did he offer to sell you any soft pork?

A. He didn't handle anything but smoked meats.

Q. Did he ever offer to sell you any soft pork?

A. No, sir.

Q. Do you know anybody he did try to sell the soft pork to?

A. No, sir.

Q. Loyd & Gray did they ever offer to sell you soft pork?

A. No, sir.

756 Q. Do you know of anybody that he ever did offer to sell soft pork to?

A. No, sir.

Q. George A. Hormel,—do you know Gray represents Hormel as brokers?

A. I don't know, sir.

Q. How about Harmon Brothers, brokers, here do you know them?

A. Yes, sir.

Q. Did Harmon Brothers ever offer to sell you soft pork?

A. No, sir.

Q. Do you know of anybody they ever did offer to sell soft pork to?

A. No, sir.

Q. Did Hulsey, Bessent & Company ever offer to sell you soft pork?

A. No, sir.

Q. Do you know of anybody that they ever did offer to sell soft pork to?

A. No sir.

757 Q. Do you know anybody that O. C. Holland offered to sell any soft pork to?

A. No, sir.

Q. Do you know anybody that Hatley Brothers ever offered to sell any soft pork to?

A. No, sir.

Q. Do you know of anybody that T. C. Saussy & Company ever offered to sell any fresh pork to?

A. No sir.

Q. I believe you testified you didn't know about Savage & Radavata?

A. No, sir.

Q. Saint Louis Independent Packing Company, do you know anybody they ever offered to sell soft pork to?

A. No, sir.

Q. C. E. Smith & Company, do you know of anybody that they ever offered to sell any soft pork to?

A. No, sir.

Q. J. W. Schneider, did they ever offer to sell any soft pork to anybody that you know of?

A. No, sir.

Q. Wilson & Parker Company, did they ever offer to sell any soft pork to anybody that you know of?

758 Q. Do you know that concern?

A. Yes, sir.

Q. Did they ever offer to sell any soft pork to you?

A. No, sir.

Q. O. H. Wright, how about them?

A. None at all.

Q. C. W. Zarring & Company, do you know about that company?

A. Yes, sir, wholesale grocers.

Q. Did they ever offer to sell you any soft pork?

A. No, sir.

Q. Do you know anybody they ever did sell any soft pork to?

A. No, sir.

Q. Now, Mr. Miller, take these names of concerns which Mr. Horton has asked you about—did you meet the representatives of those companies from day to day in a general way and know what they were doing?

A. Very few of them.

Q. Now, Armour & Company, did you meet their representative from time to time?

A. Yes, occasionally.

Q. Do you know about how much pork product Armour & Company are selling in the Jacksonville market?

759 A. No, sir.

Q. Much or little.

A. Quite a little.

Mr. Horton: By that answer do you mean they sell much?

A. Yes, sir.

Q. What facilities have they for selling?

A. Thel haul by truck direct from their plant.

Q. They have a branch house here? ?

A. Yes, sir.

Q. And a plant here?

A. Yes, sir.

Q. Now take Morris & Company, do they sell much or little?

A. I have no way of knowing the volume of their business.

Q. Do you know whether they have a branch house here?
A. Yes, sir.
Q. Do you know what their facilities are for selling?
A. No, sir.
Q. Take Cudahy & Company, do you know whether they sell much or little?
A. No, sir.
Q. Do you know what the facilities they have for selling are?
760 A. No, sir.
Q. Have they a branch house here?
A. Yes, sir.
Q. And salesmen?
A. Yes, sir.
Q. Have you any idea how many salesmen they have?
A. They have three in the City.
Q. And do they canvass the trade continuously?
A. Yes, sir.
Q. Morris & Company have a branch house here?
A. Yes, sir.
Q. And they have salesmen?
A. Yes sir.
Q. And what trade do they canvass?
A. General trade.
Q. How many salesmen have they?
A. I don't know.
Q. Do you know whether or not they have more than one?
A. I don't know.
Q. Then Wilson & Company, do you know what facilities they have?
A. No, sir.
761 Q. They have a branch house here?
A. Yes, sir.
Q. Do they do much or little business.
A. I couldn't say how much they sell.
Q. Take Swift & Company, did you say they sell much or little?
A. I don't know their capacity.
Q. Do you know what their facilities are?
A. About the same as the rest I suppose.
Q. About the same as the other four you have mentioned?
A. Yes, sir.

Q. Do you know of any reason why Armour should sell on the market for less than the other four?

A. The only reason I know is that they get the stuff here to the plant and deliver it by truck to town,—don't have to transfer it by rail.

Q. Where does this stuff come from that Armour gets by truck?

A. Right here in the City.

Q. Now take these other concerns, Kingan & Company, does Kingan & Company sell much or little?

A. I have no way of knowing.

Q. Has he got a branch house here?

762 A. Yes, sir.

Q. Do you know what selling facilities they have?

A. No, sir.

Q. Brown Meacham & Company, sell much or little.

A. They are brokers, I don't know what they sell.

Q. Do you know what class of stuff they offer to sell?

A. No, sir.

Q. Do they ever call on you?

A. No, sir.

Q. P. A. Degnan, does he sell much or little?

A. I don't know what he sell, he sells, bacon and hams.

Q. A broker?

A. Yes, sir.

Q. Do you know how many salesmen he has?

A. He has none but himself.

Q. Loyd & Gray, do they handle much or little?

A. I don't know sir.

Q. What is Loyd & Gray?

A. They are brokers?

Q. What do they sell?

A. I don't know.

Q. They never call upon you?

763 A. No, sir.

Q. Do you know whether they have any salesmen at all?

A. No, sir.

Q. Do you don't know or he does not?

A. I don't know.

Q. Do you know who Gray represents?

A. No, sir.

Q. Hamlin Brothers, or Harmon Brothers, what are they, brokers?

A. Yes, sir.
Q. Do they sell much or little?
A. I don't know sir.
Q. Do you know whether they have any salesmen at all?
A. No, sir.
Q. Do they ever call upon you?
A. No, sir.
Q. Do you know what they sell?
A. No, sir.
Q. Hulsey Bessent & Company, are they brokers?
A. I think so.
Q. Do they sell much or little?
764 A. I don't know sir.
Q. Do they have any salesmen?
A. I don't know that.
Q. Do they ever call upon you?
A. No, sir.
Q. Do you know what they offer to sell?
A. No, sir.
Q. O. C. Holland & Company, are they brokers?
A. I don't know them.
Q. Never heard of them?
A. No, sir.
Q. Hatley Brothers, are they brokers?
A. I don't know sir.
Q. Did you ever heard of them?
A. No, sir.
Q. T. C. Saussy & Company are they brokers?
A. I think so.
Q. Do you know whether they sell much or little?
A. I don't know sir.
Q. Did they ever call upon you?
A. No, sir.
Q. And you don't know what they offer to sell?
765 A. No, sir.
Q. Savage & Radavata, are they brokers?
A. I don't know.
Q. Have they any salesmen?
A. I don't know.
Q. Do they call upon you?
A. No.
Q. Do you know what they offer to sell?
A. No, sir.
Q. Do you know whether they sell much or little?

A. I don't know sir.
Q. The St. Louis Independent Packing Company, what is their standing in the market, brokers?
A. They have only recently come here, they have salesmen selling on a brokerage basis.
Q. One salesmen?
A. Yes sir.
Q. Do they sell much or little?
A. About a car a week.
Q. Would you call that much or little?
A. Small busines, one car.
Q. How much busines does your firm handle a week on an average?
766 A. I don't know right off how much.
Q. Do you handle a car a week?
A. A car a week of everything, I guess. We buy from a good many people, don't buy a car from any one.
Q. Do you think what you would buy from all will aggregate a car a week?
A. Yes, sir.
Q. How many little packing concerns are there in the City, if you know State?
A. I don't know.
Q. C. E. Smith & Company,—do you know whether that concern sells much or little?
A. I don't know.
Q. Do you know what it is—a broker?
A. A broker, I think.
Q. Do you know whether or not it has any salesmen?
A. No, sir.
Q. Do they offer to sell you goods?
A. No, sir.
Q. Do you know of anybody they ever offered to sell soft pork?
A. No, sir.
Q. J. W. Schneider, he is a broker?
767 A. A broker
Q. And do they sell much or little?
A. I have no idea, sir.
Q. Did they offer to sell you anything?
A. No, sir.
Q. Wilson & Parker Company, do they sell much or little?
A. I don't know sir.
Q. What are they, brokers?

A. Brokers, yes, sir.
Q. Do you know whether or not they have any salesmen?
A. No, sir.
Q. Have they offered to sell you any goods?
A. No, sir.
Q. Do you know anybody they ever did offer to sell any goods to?
A. No, sir.
Q. O. H. Wright, do they sell much?
A. I don't know, sir.
768 Q. Have they any salesmen?
A. I couldn't tell you.
Q. What are they brokers or packers?
A. Brokers.
Q. Do they ever offer to sell you anything?
A. No, sir.
Q. Do you know of anybody they have offered to sell?
A. No, sir.
Q. C. W. Zarring & Company, what are they?
A. Wholesale grocery.
Q. Do they sell to the retail trade, sell meats?
A. Sell dry salts.
Q. Do they sell much or little?
A. I don't know sir.
Q. Do you know whether or not they sell much or little?
A. I don't know, sir.
Q. Do you know whether or not they employ a man to sell dry salt meat?
A. Yes sir.
Q. Did they offer to sell you?
A. No, sir.
769 Q. Do you ever buy from them?
A. No, sir.

Recross Examination by Mr. Horton.

Q. You are a wholesaler, are you, Mr. Miller?
A. Yes sir.
Q. Is it usual for one wholesaler to call upon another and try to sell him goods?
A. Well, the meat game, it is.
Q. That is, there are exceptions?
A. Yes, sir.

Q. What you mean to say is that sometimes one wholesaler does sell to another?

A. Oh, yes.

Q. Now, when Mr. Taylor, was asking you questions about these various packers offering you soft pork and in a number of cases you answered "no, sir" and he was asking you if you had bought any soft pork?

A. Yes, sir.

Q. When you answered what did you have in mind?

A. Southern pork.

Q. Fresh pork?

A. Yes, sir.

770 Q. Did you answer him about smoked meats or did you exclude that from your answer?

A. No, sir, just fresh pork.

Q. Just fresh pork?

A. Yes, sir.

Q. Now how does trim and quality of the soft pork compare with what it was when you tried to get it back in 1916 and 1917?

A. The trim has improved considerably and the quality is improved, turning out better pork now.

Q. They are turning out better pork now?

A. Yes, sir.

Q. Is it also a fact that the trade is educated up to use fresh pork now better than it was when you first started selling it?

A. Well, I had very little difficulty when we first started. When it came through fresh it was really the sweeter meat, sweeter than Western meat.

Q. As I understand, soft pork is oily,—a considerable waste in handling it.

A. Yes, sir.

Q. Is that right?

771 Q. Some trade like it?

A. Well, we have very little trouble with it with any of the trade now.

Q. Isn't it a fact now that some of the trade will not take it at all?

A. Well, they are freezing it now and it come through in better shape and there is very little objection to it.

Q. In other words you like it better frozen?

A. Yes, sir.

Q. It is more satisfactory for the wholesaler and the retailer and the consumer?
A. Yes, because it comes though in better shape.
Q. It can be handled to better advantage?
A. Yes, sir.
Q. And the wholesaler and retailer like it better when it is frozen?
A. Yes, sir.
Q. To sum up, the pork you used to get and the pork you are getting now commands a better price in the market does it not?
A. We are getting a better price for it, yes, sir.
Q. Now the Jacksonville Cattle Company out here,— they have been in business for the last 6 or 7 years?
772 A. Yes, sir.
Q. And they have been slaughtering hogs all that time?
A. Yes, sir.
Q. And they sell the hogs whole?
A. Yes, sir.
Q. It has been possible for you to buy the whole hogs from them right along?
A. Yes, sir, but I never used them.
Q. You preferred to buy them cut up?
A. Yes, sir.
Q. If you wanted a whole hog there is no reason why you can't get it though?
A. No, sir.
Q. That is to say you can get if from them if you want it?
A. Yes, sir.
Q. You can buy a whole hog out there and cut it up yourself?
A. Yes, sir.
Q. Is it not true a lot of farmers dress hogs?
A. In winter time yes, that is true.
Q. You can buy from the farmers?
773 A. Yes, sir.
Q. That is all soft hogs?
A. Yes, sir.
Q. Also there are a number of hogs raised around Jacksonville?
A. Yes, sir.

Q. There is nothing to prevent you buying one of those hogs alive and dressing it is there?
A. No, sir.
Q. It is not much of a job to butcher a hog is it?
A. No, sir.
Q. All it takes is a butcher knife and a kettle of hot water?
A. Yes, sir.
Mr. Horton: That is all.

Re-redirect Examination by Mr. Taylor.

Q. Now, Mr. Miller, in regard to these soft hogs you can buy from the farmers, first take a butcher knife and a kettle of water, if you wanted one of them, what would you do next?
A. The first thing, I wouldn't want one.
Q. The first thing, would you take your butcher knife and kettle of hot water and carry it around the coun-
774 try?
A. I wouldn't do that.
Q. Leave that for someone else to do?
A. Yes, sir.
Q. It might take you sometime before you could find the hog, might it not?
A. Yes, sir.
Q. Now going back into the matters of improvement in the quality of the soft hogs, do you recollect when the Moultrie Packing Company began to put out its product, at the very start?
A. Yes, sir.
Q. Now, take that time, from then on up to September 1917, is it not your recollection that that improvement was progressive from the time the Company started to operate?
A. Yes, we got more hard hogs right along.
Q. You got more hard hogs every year from the time you started handling them?
A. Yes, the farmers started feeding them better.
Q. Mr. Horton asked you if you had smoked soft meat in mind when you answered the question in regard to whether these various concerns I named handled soft hogs—now, if you had had that in mind would you have changed your
775 answer about any of those?
A. The smoked meat?
Q. Yes?

A. Smoked meat is something I don't use because the cure is too salty.

Q. You don't use smoked meat because the cure is too salty?

A. Yes, sir, haven't got it down mild enough.

Q. Do you know anything about the pork hams,—the soft pork?

A. No, sir. There are lots of them in town but I don't handle them.

Q. Do any of those concerns?

A. No, sir, they are practically all retail business.

Q. Mr. Miller, about how much of your business is retail and how much is wholesale?

A. My wholesale business is done principally with the hotels and restaurants.

Q. You simply call upon the hotels and restaurants,—will your wholesale part of the business amount to as much as the retail?

A. Yes, sir.

Q. You sell as much wholesale as retail?

776 A. Just about the same thing.

Q. Just what does the wholesale part of include?

A. Loins, beefs, hams, shoulders.

Q. Do you sell to any retailers at all?

A. No, sir. We used to sell to two or three small colored markets.

Q. How long ago has it been since you sold to any retail markets?

A. A couple of years ago. We had some come in on Saturday when the others were closed up and buy a pork loin or two, something like that, and pay for it.

Q. Now, what you intend to include in your wholesale business, if I understand you correctly, is the meats you sell to Hotels and restaurants?

A. Yes, sir.

Q. How do those orders come in from hotels and restaurants, from the hotels themselves?

A. Yes, sir.

Q. The hotel will order you to send over a certain amount of beef or pork or loin?

A. Yes, sir.

Q. How will those orders run?

A. All the way from $50 to $75 and some will be $10.

777 Q. For a day's business?

A. Yes, sir.

Q. And you sent in the meats from day to day to the hotels and restaurants as they ordered them?
A. Yes, sir.
Mr. Taylor: That is all.
Thereupon the witness was excused.

At 12:25 o'clock P. M. the hearing recessed until 2:00 o'clock P. M., at which time the hearing reconvened.

By the Examiner: The hearing will come to order.

778 J. A. WISENFELD, called as a witness for the Commission at Jacksonville, Florida, on March 21, 1921, after having been first duly sworn testified in substance as follows (Pages 1317-1343):

That he is engaged in the retail meat business in Jacksonville, Florida, and has been so engaged for seven years; that during the year 1916-17 he handled a large quantity of southern meat packed by the Moultrie Packing Company; that during 1916 about 50% of his fresh meat business was southern meat, and that at times all of his pork loins were southern loins; that he usually bought fresh pork, hams, shoulder head, ribs, pig tails, etc., from the Moultrie Packing Company; that he bought some smoked meats from that concern at the same time during 1916-17; that during the same period 1916-17 a salesman for Swift & Co. called upon him from time to time and offered to sell pork loins and all kinds of pork products; that Sam Smith represented the Moultrie Packing Company in Jacksonville, and that he made his purchases of Moultrie products through him; that he was unable to find the invoices for products purchased from the Moultrie Company except in September 1917, and that the latest purchase was on September 13, 1917; that about that time Sam Smith discontinued selling Moultrie products; that five or six months after this Sam Smith began to represent the Tifton Packing Company and that he made purchases of Tifton products from Sam Smith; that at the present time he buys Moultrie Company products from Swift & Co.

779 W. M. BAKER, called as a witness for the Commission at Jacksonville, Florida, on March 21, 1921, and after having been first duly sworn, testified in substance as follows (Pages 1344-1381):

That he has been engaged in the retail meat business in Jacksonville, Florida, for the past nine years and has branch stores at Tampa, Florida, Savannah, Ga., Charleston, S. C., Richmond, Va., St. Petersburg and Orlanda, Fla., that during the year 1916, just after the opening of the Moultrie Packing Company plant he bought considerable peanut fed pork from the Moultrie Company for his Jacksonville store, Savannah, Ga., store and Charleston, S. C. store and made occasional shipments to Tampa, Fla., during the winter months; that he was unable to locate records showing total volume of business transacted with the Moultrie Packing Company; that most of the invoices and other records had been destroyed; but that his recollection was that his Charleston store used from 3000 to 5000 lbs a week, but that during the winter season in 1916 and 1917 the Moultrie Packing Company account would amount to $3000.00 a week for the three stores at Jacksonville, Charleston and Savannah, and would average $1500.00 per week in the winter time. That the principal products handled were fresh hams, fresh shoulders, pork loins and smoked hams and smoked shoulders; that they were soft and could not be used exclusively; that in Savannah he probably used as much Moultrie products as he did western products, but as Charleston not quite as much as one-half of his sales were Moultrie products, and that
780 he would estimate from 500 to 1000 lbs. of Moultrie products through his Jacksonville store; that he discontinued purchasing Moultrie products in July 1917 or shortly thereafter, and that about that time he heard Swift & Company had bought the Moultrie Packing Company; that he had bought Moultrie products in Jacksonville through Sam Smith and through George Dixon for his Savannah and Charleston stores; that the Moultrie Packing Company had no agent in Charleston; that after Sam Smith and George Dixon discontinued handling the Moultrie account, the Moultrie Packing Company products were sold by Swift & Company in Savannah, Charleston and Jacksonville, where Swift & Company was represented and doing business selling practically all packing house products, but that prior to the purchase of

the Moultrie Packing Company very few fresh hams and shoulders were sold by Swift & Company.

That after Swift & Company secured the Moultrie Packing Company a plant was opened at Tifton by the Tifton Packing Company; another plant was opened at Statesboro and Macon, Ga., during the winter of 1918, and that he began to buy pork products from Tifton and Macon products for his Jacksonville store, and from Statesboro for his Charleston and Savannah stores; that he continued to buy from them as long as they operated; that they are not now doing business; that he also made some purchases in 1918-1919 from the Chipley Packing Company, Chipley, Fla., and from a Packing Company at Waycross, Ga., and Orangeburg, S. C.; that these plants are not now in operation; that Armour & Co. has a plant in Jacksonville and are engaged in packing southern products.

781 *Cross-Examination.*

That he handled practically all Western meats—part native and part Western, at the different places above named; by native he meant Southern pork—soft or peanut fed pork. That he bought soft pork products from the Tifton Packing Company during the Winter season; that that is the only time they used soft pork.

Recross-Examination.

That the Jacksonville Cattle Company has been in business ever since he has been here—nine years or more; that they built a small killing plant and are continuously offering carcass product to this market; that Ferris & Company are building a small plant; that they are selling stuff, but are having it killed at either the Jacksonville Cattle Company or Armour & Company; that he wouldn't be sure, but he thought Armour operated the Tifton Company for about eighteen months; that it was said the plant was closed because there was not sufficient live stock to run the plant; that hogs are better now than they were ten years ago; that he thinks these local packing plants have helped to develop the hogs; that before you could begin to encourage the farmer to raise hogs, you must first establish a market;

The price of cotton was lowest in 1914; that the buy a balo

movement was then inaugurated; that cotton was ten
782 cents then; that to have a plant operate you have to have a satisfactory supply of hogs; that there had never been a plentiful supply of hogs in the South. They have claimed they never could get enough to operate during the Summer months, and in the South there is almost no demand for pork during the Summer months. They would operate four or five months and then would shut down killing plant and smoke out the hams and shoulders that were in pickle. In 1920 the market price for hogs went down; that meant a drop in the market price of live stock and also for the finished products—anyone who was carrying a stock of goods from live-stock that year lost money. It is true that you cannot operate a big plant without carrying a fairly good supply of live stock.

That he understood the Statesboro plant got rid of Dixon, its manager; that after that each man tried to go ahead and run it into the ground.

That the Macon plant was sold to the Allied Packers; that he understood they got their cellars clean and were afraid of the market and did not operate last Winter; that he heard they lost $400,000.

That he understood the Waycross plant was not profitable and they quit operating it; that there was a plant in Orangeburg for a short while and they closed down, but that he did not know why. That in the packing house and meat business it takes strict supervision to make a success of it, and requires efficient management.

783 That of all the plants the people in the South were operating within the past six or seven years, the plants at Atlanta, Moultrie and Jacksonville are the only ones operating in the South today.

That the firms of Swift & Company, Armour & Company, Morris & Company, Cudahy, Wilson & Company, and their predecessors, the S. & S. Company, are in the wholesale meat business in Jacksonville, and have been for the past five or six years; that that is true of the other points mentioned with the exception of Charleston—Swift & Company and Armour & Company are the only packers there; Morris & Company has a branch, but it don't amount to much.

784 The Examiner: The objection will be noted, and the motion to strike will be noted.

Recross Examination by Mr. Horton.

Q. That is still your personal opinion you are giving now, is it Mr. Baker?

A. I suppose so, it could not be otherwise.

Mr. Horton: I move to strike the last answer of the witness on the ground it is his personal opinion.

The Examiner: The motion to strike will be noted.

Thereupon the witness was excused.

---

785 Mr. Taylor: Mr. Examiner. Copies of certain letters from J. W. Clark Company to the Andalusia Packing Company have been heretofore offered in evidence but were not received for the reason they were copies of letters and all efforts had not been made to secure the originals.

Since that time subpoena has been served upon J. L. Thweatt, Manager of the Andalusia Plant of Swift & Company, requiring him to produce originals of these letters and it appears from his testimony that the originals has been destroyed. I therefore, again offer the copies which have been previously offered and marked for identification from "X" to "Z," both letters inclusive, and will ask that they be received in evidence and marked and marked in the same way in which they are marked for identification.

Mr. Horton: We object to the offer on the ground the proper foundation has not been laid for the admission of these letters. And also that they are ex parte statements of J. W. Clark and not of the Andalusia Packing Company. And also upon the ground they are incompetent and immaterial and have no bearing upon the issues in this case.

The Examiner: The letters will be received in evidence and marked Commission's Exhibit Nos. 117 to 132, inclusive.

786 Wednesday, March 23, 1921.

Federal Building, Jacksonville, Fla.

The Hearing met pursuant to adjournment.

Appearances: The same as of Tuesday, March 22nd, 1921;

The Examiner: The Hearing will come to order.

J. W. BRYCE, called as a witness, being first duly sworn, testified as follows:

Direct Examination by Mr. Taylor.

Q. What is your name?
A. J. W. Bryce.
Q. What is your business?
A. Manager for Swift & Company, Jacksonville, Florida.
Q. Are you the branch manager for Swift & Company here?
A. Yes, sir.
Q. How long have you been such manager?
A. Since February, 1909.
Q. How long have you been in the employ of Swift & Company?

787 A. Since 1900.
Q. Continually?
A. Yes, sir.
Q. Mr. Bryce, are you in charge of the books and accounts of the Jacksonville branch of Swift & Company, that is, are they under your supervision and control?
A. Yes, sir, all the business.
Q. And were you served with subpoena to appear here and bring the ledger, journal and other books and accounts of Swift & Company?
A. Yes, sir.
Q. And other records showing purchases of meat, and meat products of the Moultrie Packing Company during the year of 1917?
A. Yes, sir.
Q. Now will you please state what you have done in the way of producing these records?
A. Well, we had a careful search made through the records

and got all purchases we could find through the year 1917, and all that we could find you have in your hands.

Q. And it is presented here in the form of a statement showing the first entry July 20th, 1917, and the last entry on November 1, 1917?

788 A. Yes, sir.

Q. And does that represent all of the sales of the Moultrie Packing Company to the Jacksonville branch of Swift & Company during the year 1917, up to and including the year 1917?

A. Yes, sir.

Mr. Taylor: I offer in evidence the statement produced and testified to by the witness.

Mr. Horton: There is no objection on the ground that this statement and those records kept in the books there and which agree with the books, that they are not regular and properly kept, and that this is a correct statement. But we do object as to the materiality and competency of this evidence as to the issues in this case. Does that make my meaning clear?

Mr. Taylor: I think it is very clear.

The Examiner: The objection will be noted. The papers will be received in evidence marked Commission's Exhibit No. 140.

Q. Now, Mr. Bryce, referring to this paper which you have produced, Exhibit No. 140, I will ask you how it was paid for, by the Moultrie branch of Swift & Company,—that is, with whom was the settlement made, or to whom was

789 the payment made?

A. The items of July 20th, in which $4958.36 was paid to Moultrie Packing Company.

Q. That was paid by the Jacksonville branch?

A. Yes, sir, to Moultrie Packing Company. The rest was paid by Swift & Company Jacksonville, Florida, to Swift & Company Chicago.

Q. Now, Mr. Bryce, can you state what products were covered by these various invoices shown upon this Exhibit sheet No. 140?

A. It covers the entire line of pork products, dried, salt, smoked and fresh meats.

Q. That is the line bought and sold by the Moultrie Packing Company?

A. Yes, sir.

Q. Now for what purpose did this branch house buy these products, to sell to the general trade?

A. We sold to the general trade, yes, sir.

Q. And what territory does your branch cover within its general trade?

A. We go down the East Coast Railway south to Fort Pierce, work the coast line to Ocala or Dunellon, we go
790 west to Live Oak to all the entire mid-territory.

Q. Of course you cover the City of Jacksonville?

A. We work that.

Q. Now, did you find the purchases of the Jacksonville branch of Swift & Company from Moultrie & Company after November 1st, 1917 during the year 1917?

A. Now, do you want from the Moultrie Packing Company or the Moultrie plant?

Q. You can make your answer full?

A. I made purchases from Swift & Company, Moultrie, yes, sir.

Q. Your answer I assume is based upon the fact that the physical assets of the Moultrie Packing Company were conveyed to Swift & Company after November 1st, 1917?

A. No, I didn't make that statement.

Q. No, I just asked you if that was what your answer was based upon?

A. We made purchases from Swift & Company Moultrie —now, the Moultrie plant may still be in existence so far as I know.

Q. You know it is in existence today?

A. I say, the Moultrie Packing Company may still have been in existence so far as I know.

791 Mr. Horton: The Respondent admits upon the record that on November 8, 1917 the physical assets of the Moultrie Packing Company, a corporation, were sold to Swift & Company, a corporation, and so far as the plant there was concerned it was operated under the name and by Swift & Company, a corporation at Moultrie, Georgia.

Q. Now, Mr. Bryce, the plant at Moultrie, Georgia, formerly owned by Moultrie Packing Company is now known as the Moultrie plant of Swift & Company, is it not?

A. Yes, sir.

Q. Now I show you an another paper showing an entry of items made November 5th 1917 to December 4th, 1917, I will ask you what that paper represents?

A. That represents purchases made from Swift & Company, Moultrie, Georgia.

Q. Purchases made from Swift & Company, Moultrie, Georgia?

A. From November 5th to January 1st, that is, the balance of 1917 purchases.

Q. The total purchases for the year 1917 after November 3rd?

A. Yes, sir.

Q. Well, by whom was this paper made out?

792 A. I had my office—the office manager to make it out.

Q. Is it a complete transcript of the sales of Swift & Company, the Moultrie branch, to the Jacksonville branch?

A. All that I could find.

Q. The books are properly kept and correct books of the accounts are they?

A. Yes, sir.

Mr. Taylor: I offer these sheets in evidence, assuming that there will be no objection on the ground that it is a copy, or transcript of the books, rather than the original records.

Mr. Horton: There is no objection upon the ground that it is a copy,—or a statement from the books. But, I object to the competency or materiality as evidence. It is not pertinent to any of the issues in this case. I object to the competency and materiality of this evidence as not tending to prove any issue in this case.

The Examiner: The objection will be noted and the paper will be received in evidence, marked Commission's Exhibit No. 141.

Q. Now, Mr. Bryce, can you state what these

793 entries do represent, the purchased of the Jacksonville branch, what products?

A. Represents fresh pork cuts, sweet pickled meats and dry salt meats.

Q. All pork or some beef?

A. All pork.

Q. Did that include the full line of products bought up at the Moultrie plant of Swift & Company?

A. Yes, sir.

Q. And were these products sold in the regular course of business of the Jacksonville branch of Swift & Company throughout its territory?

A. Yes, sir.

Q. And how did the Jacksonville branch of Swift & Company pay for these shipments?

A. They were paid for by check.

Q. And your check went where?
A. We paid by check to Chicago.
Q. You paid by check to Swift & Company of Chicago?
A. Yes, sir.

Cross-Examination by Mr. Horton.

Q. Now, Mr. Bryce, I will ask you if all these items which were settled by check to Swift & Company, Chicago,
794 which includes the items on both Exhibits No. 140 and 141, with the exception of the first entry on Exhibit 140, dated July 20th, 1917, in figures, $4958.36, was not kept on your books in your F. O. B. Merchandise account?
A. Yes, sir.
Q. And is it not a custom under the bookkeeping system of Swift & Company for all items so recorded to be paid by check to Swift & Company of Chicago?
A. Yes, sir.
Q. And that includes payment for purchases from Swift & Company and other concerns, such as cheese account and eggs account?
A. We usually make a settlement with Chicago. We settle with Swift & Company and they settle with the purchaser. They settle with the man whom we make the purchase from. That is the way we handle it.
Q. Now do you mean to say in all cases they make the purchase for you?
A. No, not in all cases. They make large purchases for us. If we buy a case of eggs locally we pay for them, but all large purchases from the west, we buy them and they settle with the seller.
Q. Then that is what you mean to say when you make large purchases they settle with the seller and you buy
795 them?
A. Yes, sir.
Q. But butter and eggs and cheese, such things like that, they let you order that and they pay you for it and you pay the seller?
A. Yes, sir, sure. Where they make the purchases and pay the shipper we pay them.
Q. Now I will ask you this: This item 140 representing purchases by you from the Moultrie Packing Company, were they purchases by you from that house?
A. Do you mean whether we placed the order direct?

Q. Yes?
A. No, sir, we usually place the order through Chicago.

Redirect Examination by Mr. Taylor.

Q. Mr. Bryce, can you explain why on that order, this first order, July 20th, 1917, on Exhibit No. 140, don't appear upon the F. O. B. account, but was paid for direct to Moultrie?
A. Why, no, I don't recollect any of the circumstances connected with that.
796 Q. Do you know any reason why that entry should have been treated in any different way from the other entries appearing on the same exhibit?
A. No, I don't.
Q. And if you find all these other entries were properly kept on this F. O. B. account, why should not the first entry have been carried on the F. O. B. account?
A. I don't know, do you mean to ask why they should not have carried it in the same place?
Q. That is the idea.
A. Oh, I presume it may have been a direct purchase from Moultrie, I don't know.
Q. Do you mean to say that you think the order for that first item, July, 1917, was transmitted directly from Jacksonville to Moultrie and then the others were transmitted from Jacksonville to Chicago?
A. Well, it could have been, that way, I don't know why.

Recross Examination by Mr. Horton.

Q. You mean by your answer, Mr. Bryce, that the circumstances are just possible as you have mentioned?
A. No, I don't remember the circumstances relating to that order.
797 Q. Now, I will ask you if the prices paid for the items represented by this Exhibit 140 and 141 was the market price that prevailed at the time?
A. Yes, sir.
Mr. Taylor: Now, I object to that unless the witness shows that he knows what the market price was at the time.
The Examiner: The objection will be noted.
Q. If you wanted to know the market price at that time it would be the price paid for these goods, would it not?

A. Yes, sir.
Mr. Horton: That is all.
Thereupon the witness was excused.

---

798 At 7:30 o'clock the hearing was reconvened.

The Examiner: The hearing will come to order.

SAMUEL T. SMITH, being called as a witness, was first duly sworn, and testified as follows:

Direct Examination by Mr. Taylor.

Q. What is your full name?
A. Samuel T. Smith.
Q. Where do you live?
A. 227 West Union Street.
Q. In the city of Jacksonville, Florida?
A. Yes, sir.
Q. In the years 1916 and 1917, up to the latter part of that year, where were you living?
A. In Jacksonville.
Q. Were you engaged in business in Jacksonville at that time?
A. I was.
Q. What line of business?
A. Packing house products.
Q. Were you connected with any particular concern?
799 A. I was.
Q. What was that concern?
A. The Moultrie Packing Company of Moultrie, Ga.
Q. When, as near as you can remember, did you become connected with the Moultrie Packing Company?
A. Why, it was during October of 1916. September or October, 1916.
Q. And at whose solicitation?
A. Why, Mr. Weeks, a friend of mine had received a letter from Moultrie Packing Company and asked if he could take on the account and if he could not would he recommend some broker selling the retail trade for that, and Mr. Weeks called me up about it. I wrote the house and I had a letter from them.

Q. Do you mean the Moultrie Packing Company, by the "house"?

A. Yes, sir. And I had a letter from Mr. W. C. Vareen, their president.

Q. Have you got that letter now?

A. No, sir. I haven't got it.

Q. Do you know where it is?

A. Why, some time ago, I cleaned out my desk and those letters—I have never been able to find most of them.

800 They were destroyed.

Q. You mean you searched for the letters and papers and accounts?

A. Yes, I have.

Q. Now, will you state what Mr. Vareen stated to you in that letter?

A. He said that he was in receipt of my letter and that if it was agreeable he would like to see me at Moultrie at my convenience about representing them, the concern, in this city.

Q. That was about representing the Moultrie Packing Company?

A. Yes, sir.

Q. Did you go to Moultrie?

A. I did.

Q. And whom did you see?

A. I saw Mr. Vareen and Mr. Brooks.

Q. What was said and done there?

A. Well, at first they didn't want to give me what I wanted, but finally they postponed the deal until after dinner. And then they agreed to give me what I wanted and I left that night.

801 Q. Well, now what were you to do for what you were to get?

A. I was to look after their products here, selling their pork products.

Q. Do you mean here in Jacksonville?

A. Yes, and other places, like Fernandino, and with the privilege of selling in Tampa.

Q. How far did this privilege go, did you have a right further than Tampa?

A. No, I just had one customer there. As I wrote to the house I had one out there and I had sold to them before—Baker Brothers, and they told me alright to go ahead and sell them.

Q. Now, that gave you the exclusive business in Jacksonville?

A. Yes, sir.

Q. Suppose those sales were made as a result of orders sent direct from Jacksonville to Moultrie Packing Company, were there any arrangements made for such cases?

A. Yes, I was to get credit for all sales out of Jacksonville, whether the Moultrie—whether I solicited orders or not?

Q. Did you get commission on the sales?

802 A. I did.

Q. What were you to sell for Moultrie Packing Company?

A. I was to sell everything pertaining to pork products, their full line, in other words, such as shoulders—fresh shoulders, hams and loins and smoked meat and dry salt meat and lard.

Q. Any lard?

A. Yes, sir.

Q. Pork trimmings?

A. Yes, sir. All that pertains to pork products. Spare ribs, pig tails, tongues, all and anything pertaining to a hog, I had to sell.

Q. Now, when did you start in selling these products for the Moultrie Packing Company?

A. As I said—well, let me see—it was about September, 1916.

Q. September 1916?

A. Yes, sir.

Q. As you commenced to sell these products, did you find any difficulty in disposing of them? Did you find that there was any prejudice against the Moultrie Packing Company?

A. When I first started out?

Q. Yes.

803 A. No, sir, I did not.

Q. By the way what was the character of products put up by the Moultrie Packing Company?

A. The quality of it?

Q. Yes. How was it known in the market?

A. It was known in the market as soft pork.

Q. Yes, and had the soft pork been sold in this market to any extent before?

A. No, sir, very little.

Q. What kind of pork had been sold here?

A. Principally western pork.
Q. And who was selling that?
A. Swift & Company, Armour, Kingan, Morris, and others.
Q. And Swift & Company were canvassing the territory at the time you commenced selling soft pork products?
A. Yes, sir.
Q. Now, when these salesmen were selling western pork, when you were selling soft pork, do you know whether or not they made any statements, any representation to the people of any form regarding the soft pork?
Mr. Horton: We object to that on the grounds that it is incompetent and immaterial and has nothing to do with
804 this case. It is mere puffing on the part of the salesman, if any was made.
The Examiner: The objection will be noted.
A. Why, yes, thre was some comment made that the western pork was far superior to that of soft pork.
Q. And how did these statements reach your ears?
A. From what they told me.
Mr. Horton: That is objected to. I move to strike the answer as hearsay.
The Examiner: The move to strike will be noted.
Q. Now, as you went about trying to sell soft pork what did the trade say to you regarding the character of soft pork? —I refer now to the time when you first started?
A. They all claimed it sold pretty well, but it would not hold up like the western pork, that they had made much on it and were going to still continue using it.
Q. And as a broker what success did you meet with as time progressed?
A. Each month I increased the sale.
Q. Did you keep your old customers?
A. Yes, I did.
Q. Did you get any new ones?
A. I did.
805 Q. And did you build up a fairly large volume of trade?
Mr. Horton: I object to that question as calling for an indefinite answer.
The Examiner: The objection will be noted.
A. Yes, sir, I did.
Q. Now, Mr. Smith, will you state to the best of your abil-

ity just how much volume you did build up, what volume of trade.

A. Well, including cars,—I had a car in every week with extra stuff coming in about the first part of the week, Tuesday. I suppose I sold 30 to 60 thousand pounds, some times —some months it would go over that.

Q. During how long a period?

A. Say for six months.

Q. 30 to 60 thousand pounds for how long a period?

A. Six months.

Q. Was that all that you sold in six months?

A. Yes, sir. As I have said, you see they have certain months what they call very heavy and other months what they call very light. In other words, when the summer approaches they haven't got much stock to offer.

Q. Yes, I see—but I think you misunderstood my
806 question. This 30 to 60 thousand pounds was sold over how long a period—how long a time, how long a period of time were you in selling this 30 to 60 thousand pounds, a week or a month—

A. Oh, yes, that is the average for a week.

Q. Was that the average throughout the year or the average during the six months of winter?

A. During the six months only.

Q. How much would it average during the other part of the year.

A. Oh, it would average around 10 to 20 thousand pounds I suppose.

Q. And during what months of the year would it average around 10 to 20 thousand pounds?

A. May, June, July, August and September.

Q. That is five months?

A. Yes, sir.

Q. How about the other seven months in the year?

A. Well, they were alright.

Q. So your average during the other months—

A. It would be about 30 to 60 thousand pounds.

Q. As you originally stated that is for during the other seven months you would average from 30 to 60 thousand
807 pounds a week?

A. Yes sir.

Q. That is what you want your answer to show?

A. Yes, sir.

Q. Were you selling this soft pork for the same price this western product would bring?

A. No, sir, there was a difference of from three to five cents under the western meat.

Q. That is from 3 to 5 cents per pound?

A. Yes.

Q. As time progressed did you continue to build up and increase the volume of your business. that is comparing the trade on one year one year with another?

A. Each season—each month showed an increase.

Q. How long a time did you have this account?

A. I had it I suppose about two years, as near as I can remember.

Q. Then were you correct in saying that you first went to Moultrie in September, 1916?

A. As near as I can remember it was sometime in 1916, it might have been 1915. I am not sure.

808 Q. Are you quite certain to have the accounts for two years?

A. Some where in that neighborhood. I could not say to save my life. It was some time about that.

Q. Are you sure it was more than a year?

A. Oh, yes, sir. It was more than a year.

Q. Do you know when you ceased to handled Moultrie pork?

A. It was the latter part of July.

Q. About what year?

A. I think it was about 1917.

Q. And you are quite certain—I will again ask you that you handled it for a period of about two years continuously up to July or August 1917?

Mr. Horton: Please, Mr. Examiner, the witness has answered that question at least twice.

Mr. Taylor: There is no doubt about it on the record, but the witness seems to be confused as to the date he first commenced to sell.

A. Well, it might have possible have been 1915 or 1916—I know that I had it over a year. I know I had it over a year and a half.

809 Q. And do you now think that you ceased to handle it in 1917?

A. Yes, sir.

Q. And do you want to change your testimony to read

that you had your interview with Mr. Vareen in the year 1915 instead of the year 1916?

A. Yes, sir. I think 1915 would strike it about right.

Q. Now came down to about the time that you handled Moultrie pork will you state what did happen with regard to the affairs of the Moultrie Packing Company?

A. I have heard that—

Mr. Horton: I object to what the witness heard, as hearsay.

The Examiner: The objection will be noted.

Mr. Horton: Mr. Examiner, I think these questions are so palpably and fairly open to objection that they ought to be ruled upon now.

A. I heard there was a rumor out—

Mr. Horton: Again I object on the same grounds. He said that he heard a rumor, that is hearsay.

The Examiner: The objection will be noted.

Q. Did you receive any letter from anybody?

810 A. No, sir, I did not.

Q. Why did you stop handling the products of the Moultrie Packing Company?

A. Because Swift & Company bought out Moultrie Packing Company.

Mr. Horton: I object to that and move to strike the answer of the witness on the grounds that it is hearsay.

A. This was not hearsay—this was straight facts.

Mr. Horton: I object to the testimony as not being competent and as being irrelevant and immaterial and not being within the knowledge of this witness.

The Examiner: The objection will be noted.

Q. Now, did this information come to you—

A. I first saw it in the Savanah paper.

Q. What next?

A. I wrote the house about it, they came back denying the fact.

Q. How did you meant the "house"? Who do you mean by that?

A. Moultrie Packing Company, the manager, Mr. Brooks, said he knew nothing of it at all. He would advise me in ample time.

Q. When was that?

A. In 1917.

811 Q. What month?

A. I think it was January or February.

Mr. Horton: I again renew my objection and my motion to strike out the testimony of the witness. His statement that Swift & Company had bought out Moultrie Packing Company, shows by his testimony that he was basing his statement upon newspaper and rumor,—newspaper accounts and rumors.

Q. Mr. Taylor: Mr. Examiner, I think when I get through with the witness it will be disclosed that the way he learned it was entirely beyond criticism, even by my friend on the other side.

The Examiner: The motion to strike will be noted.

Q. Now, did you get any further letters from the Moultrie Packing Company upon the subject?

A. No, sir, I did not.

Q. Did you get any further letters from the Moultrie Packing Company about prices—prices you were expected to get?

A. I did. About prices.

Q. Now, did you get any information from Moultrie Packing Company in any way regarding the acquisition of the stock of that Company—being bought by Swift & Company?

A. No, sir I did not.

812 Q. Did you have any talk with any of the officers of the Moultrie Packing Company regarding purchase of stock by Swift & Company?

A. No. sir, I did not.

Q. Did you make a trip to Moultrie, Ga., after that one you have spoken of in 1915?

A. Yes, sir.

Q. When was it when you went there again?

A. Why, I think it was the last of that same year.

Q. You went to Moultrie the last of that same year—did you go down again after that?

A. Yes, sir.

Q. When was that?

A. I think it was the first part of September, 1917.

Q. Yes. Now that time you went who did you see?

A. Whom did I see?

Q. Yes.

A. I saw C. L. Brooks.

Q. Who is C. L. Brooks?

A. He was the manager at the time for Moultrie Packing Company.

Q. And what did C. L. Brooks say to you?

813 A. Why he told me that there was two other parties—that there were others wanting to put up a packing house, that he would take care of me.

Q. Why was it necessary for him to take care of you?

A. Well, I had no packing houses, what I had I had to give up to take on the Moultrie Packing Company. Therefore when I lost Moultrie Packing Company I lost all that I had.

Q. How did you lose Moultrie Packing Company? What was the occasion of your losing it?

A. Swift & Company bought them out.

Mr. Horton: I move to strike that out.

The Examiner: The motion will be noted.

Q. Did Mr. Brooks tell you that Swift & Company had bought stock of Moultrie Packing Company?

A. He did.

Q. Was this when you were at Moultrie that last time.

A. Yes, sir. I was on my way from North Carolina. I stopped over then to see him.

Q. Now, why didn't you go on and represent Moultrie Packing Company notwithstanding Swift & Company had bought the stock?

A. Well, I figured out that sooner or later they would handle this stuff at this branch house here.

814 Q. Do you know whether they handled it here at that time?

A. They handled some—yes.

Q. Now, you said a short time ago that you received a letter from Moultrie Packing Company regarding prices, have you got that letter with you?

A. Do you mean from Moultrie Packing Company or Swift & Company?

Q. Well, from either one.

A. No, sir, I haven't got the letters.

Q. Have you searched for them?

A. I have.

Q. Do you know where it is?

A. I could not find them.

Q. Now, what did the letter say?

A. You mean the entire letter?

Q. What did it say about prices?

Mr. Horton: I object upon the grounds that that is not the

best evidence, the letter would be the best evidence. The letter itself or copies.

Mr. Taylor: We would be very glad to have the letter ourselves if they can produce it.

Mr. Horton: I object further on the grounds that no
815 proper foundation has been laid for this secondary evidence.

The Examiner: The objection will be noted.

Q. Mr. Smith, you were served with subpoena to appear here were you?

A. Yes, sir.

Q. And that subpoena required you to produce certain things, does it not?

A. Yes, sir.

Q. What were the things that you were required to produce?

A. All books and accounts and other records showing the amount and kind meat and meat products sold by Moultrie Packing Company during the years 1916 and 1917 including the names and addresses of the customers to whom the products were sold. Also the correspondence between the Moultrie Packing Company and myself down to June 1st, 1917 or until the year 1918.

Q. That is correct.

A. Yes, sir.

Q. And are those the things for which you have searched?

A. I have.

Q. Mr. Taylor: Now Mr. Examiner, we wish to call
816 your attention to the fact that the subpoena to the officers of the Moultrie Packing Company or rather the branch of Swift & Company, all correspondence regarding the sale of those products was to be produced, and the testimony was that the correspondence had been destroyed.

Mr. Horton: Mr. Examiner, I don't believe that Moultrie manager or anyone at that plant was asked to produce correspondence with Mr. Smith.

Mr. Taylor: That was the purport of the testimony as I recall it.

Q. Now, Mr. Smith, I will again ask you what that letter said regarding prices?

Mr. Horton: And I renew my objection.

The Examiner: The objection will be noted.

A. Why, I got the letter from the Moultrie Packing Com-

pany enclosing their price lists telling me that their prices had advanced and to hold to these prices.

Q. Now, how did those prices compare with the preceding prices?

A. From 3 to 5 cents a pound higher and one item was 12½ cents higher.

Q. How did the preceding prices compare with the prices of western meat?

A. Do you mean the prices I got—

817 Q. The preceding prices at which you had been selling soft pork, how did they compare with the prices of western pork at the same time?

A. Any where from 3 to 6 cents cheaper.

Q. How did the new prices quoted in the letter compare with the previous prices for western pork at the period covered by that letter?

A. About the same.

Q. Now, did you have any talk with anybody regarding the new prices?

A. I did.

Q. With whom?

A. With Mr. Wallow.

Q. And who is Mr. Wallow?

A. He was at that time manager of the Moultrie Packing Company.

Q. What was it, correspondence or conversation?

A. Conversation and correspondence both.

Q. Now, did you—what did you say to Mr. Wallow and what did Mr. Wallow say to you?

A. I just told him that I could not get those prices, that the trade was kicking about it. I told him that it was out

818 of the question to get those prices. One item I remember quite well, was fresh pork tongues. I had been selling them at 12½ cents a pound, I had customers who used a very large quantity of those and when I got these prices I went and told them that the prices of tongues was $.25,—

Q. Was that the price that you were instructed to sell them for?

A. Yes, sir, I was instructed not to do any changing, to sell at the list prices.

Q. And what did Mr. Wallow say to you about prices at this conversation?

A. Well, he said that he had those prices at Macon, At-

lanta, and other towns, and they were getting them and he didn't see why I could not.

Q. That is what he told you?

A. Yes, sir.

Q. Well did you try to get them?

A. I did.

Q. And in course of your endeavors to get this—to sell the products at those prices, did you meet with any of your customers who had Moultrie products elsewhere than through you?

Mr. Horton: I wish to object to this entire line of
819 testimony and move to strike it out on the grounds that Mr. Wallow was an employee of the Moultrie Packing Company and has nothing to do with this respondent, and upon the further grounds that it is immaterial and incompetent and upon further grounds that it is an exparte statement not binding upon this respondent.

The Examiner: The motion to strike will be noted.

A. Yes, sir. Quite a number.

Q. And from whom did they buy them, if you know?

A. Well, from Armour, Swift, Cudahy.

Q. And at what price? The same prices that you were instructed to quote?

A. No, sir, at less prices.

Mr. Horton: I object to that and move to strike it out on the grounds that that it is hearsay.

The Examiner: The objection and the motion to strike will be noted.

Q. Did any of your customers state to you as a reason that they were not buying from you that they could buy the same things from Swift & Company for less money?

A. They did.

Q. Now, can you recall any particular instance of that?

A. Baker Brothers, Jeffries' Market, and Sanders' Market.

820 Mr. Horton: I move to strike out the two answers as being hearsay and incompetent.

The Examiner: The motion to strike will be noted.

Q. Did you ever see any tickets showing what they were actually buying these same products for from Swift & Company?

Mr. Horton: I move to strike that out on the grounds that it is secondary evidence, unless it is shown that the tickets are authentic.

A. Why yes, I saw some invoices.

Q. Well, are you familiar with Swift & Company's invoices, do you know them when you see them—Swift & Company's invoices?

A. I think I do.

Mr. Horton: I object to that on the grounds that it is testimony that is entirely indefinite. It is not specific enough, it does not give the cut, the kind of product or the size of it, or the date of purchase.

The Examiner: The objection will be noted.

Q. Now, do you remember any particular product for which you saw a ticket or invoice for Swift & Company in which the price for which it was to be sold differed from the price that you were instructed to maintain on the same products?

A. I remember one invoice.

821 Q. What was the invoice that you have in mind now?

A. 100 pounds of smoked ham.

Q. And at what price was that invoiced?

A. At 21 cents a pound.

Q. And at what price were you instructed to maintain a sale of the same kind of smoked ham?

A. 25 cents a pound.

Mr. Horton: I object to this entire line of testimony and move to strike it out on the grounds that it is too indefinite. It is not specific testimony and the kind and quality and date and place is not fixed.

The Examiner: The motion to strike will be noted.

Q. Now, what customer was this?

A. T. H. Sampayrac.

Q. And what was the date of that as near as you can recall?

A. I don't remember the date. I presume though it was around September, 1917.

Q. Now, after this did you continue to sell Moultrie products?

A. No, sir. I did not. I quit right there.

Q. Now, can you fix the date when you did quit?

A. About the last of July, 1917.

822 Q. Why did you fix the date about the last of July?

A. Why do I fix it?

Q. Yes.

A. Because I know around the first of August I went to North Carolina.

Q. And how long were you gone to North Carolina?
A. Until the third or fifth of September—about that time. I think it was the sixth that I got home.
Q. Now, after you got home, do you recall whether you endeavored to make some further sales of Moultrie Products?
A. I might have done that, and I believe I did.
Q. Now, what is your recollection as to your success in that endeavor? What success did you meet with?
A. I met with very poor success.
Q. Now, do you recognize this book which I hand you?
A. Yes, sir.
Q. What is that?
A. It is a stub—a stub book.
Q. Stub book of what?
A. Checks.
Q. Stub book of your bank account?
A. Yes, sir.
823 Q. And this represents checks drawn by you between what dates?
A. Between August 5th 1917,—
Q. And June 26th 1919?
A. Yes, sir.
Q. Now, is it customary for you to collect for goods shipped by Moultrie Packing Company to your customers and remit by check?
A. It was. Yes, sir.
Q. Can you search through those stubs on this book and find when—find checks drawn to the Moultrie Packing Company during this period?
A. Yes, I have, some of them were in there.
Q. Now, will you tell what checks you were able to find in this stub book which showed that checks were drawn to the Moultrie Packing Company in payment of invoices of goods sent out by the Moultrie Packing Company?
A. Well, August 17, 1917, Moultrie Packing Company (Indicating check).
Q. Is that your writing?
A. No, sir, that is my wife's.
Q. And what does that indicate?
824 A. $7.00 on account.
Q. And to whom was that made to order?
A. Moultrie Packing Company.
Q. Now, by whom—not to whom?

A. My wife.
Q. Did your wife have power to sign your name?
A. No, sir, she did not—I just left them.
Q. You left signed checks?
A. Yes, sir.
Q. Were you in town at that time, August 17, 1917?
A. I was not in the city.
Q. Is that check to the Moultrie Packing Company in payment of goods that had been shipped by them?
A. Yes, sir.
Q. To whom were they shipped?
A. To the Globe Market, September 12th, 1917. Moultrie Packing Company, Beldon & Company.
Q. In payment of what?
A. Invoices.
Q. To whom?
A. Beldon & Company.
825 Q. And the next?
A. The next is September 13th, 1917, to Moultrie Packing Company, and for A. S. King, $15.60.
Q. Is that your writing?
A. Yes, sir.
Q. How is this other check, is that your writing? (Indicating.)
A. That is my writing, yes, sir.
Q. That is September, 12th?
A. Yes, sir.
Q. Now, what is the next?
A. September 18th.
Q. What year?
A. 1917.
Q. Mr. Horton: I move that the check book be introduced in evidence, Mr. Examiner, for itself, and can be made an exhibit in the case.
Mr. Taylor: I offer the stub book in evidence.
Mr. Horton: No objection.
The Examiner: The stub book will be received as evidence and marked Commission Exhibit #133.
It was stipulated by the parties hereto, that only the
826 stubs to the Moultrie Packing Company be offered in evidence.
Q. Now, Mr. Smith, will you turn to the stub in this book, Exhibit #133, and find the record of the last check drawn Moultrie Packing Company?

A. October 9th, 1917. Moultrie Packing Company, Cracker Six, $12.28.
Q. What does that $12.28 mean?
A. That is the invoice.
Q. That is the amount of the check?
A. Yes, sir. And the invoice is dated September, 15th.
Q. Of what year?
A. 1917.
Q. And is that the last invoice of which you have any record?
A. Yes, sir.
Q. Have you any recollection of anything later?
A. No, sir.
Q. The number of this check is what?
A. 1053.

827 *Cross-Examination by Mr. Horton.*

Q. Are there hogs raised in and about the vicinity of Jacksonville?
A. Did you say, are there any hogs?
Q. Yes, are there hogs raised about here?
A. Yes.
Q. Farmers raise hogs around here?
A. Yes, sir.
Q. How long have they been doing that?
A. Several years.
Q. Several years?
A. Yes, sir.
Q. Do you want to go back further than that? Do you want to go back ten years?
A. Yes, sir.
Q. Do you want to go back fifteen years?
A. A little further than that.
Q. Now do farmers dress hogs and sell them in Jacksonville?
A. Yes, sir.
Q. And that has been going on for about the same
828 period of time?
A. Yes, sir.
Q. Have you got a local slaughtering plant here called the Jacksonville Cattle Company?
A. Yes, sir.

Q. Haven't they been in business here for about ten years or more?

A. Something like that.

Q. Haven't they been slaughtering hogs and selling them?

A. Yes, sir.

Q. Selling the carcass hogs?

A. Yes, sir.

Q. Now, what is the character of hogs raised in and about Jacksonville as compared with the hogs that are raised around Moultrie, are they soft hogs?

A. Some are soft and some are not.

Q. That is true of both sections, is it not?

A. Yes, sir.

Q. The character is about the same, is it not?

A. About the same.

Q. Then, therefore it is a fact that some have been sold in this market for ten years or more?

829 A. Well, yes, sir. Not the cuts, but the whole hogs.

Q. Not the cuts, but the whole hogs?

A. Yes, sir.

Q. But it is a soft hog?

A. Yes, some are soft and some are not.

Q. Yes, but the percentage runs about the same in both cases—about the same character?

A. About half and half.

Q. Do you think Moultrie hogs are one half hard and one half soft?

A. Yes, sir, as a rule, yes.

Q. You think they are as a rule?

A. Yes, sir. Half hard and half soft.

Q. Half hard and half soft?

A. Yes, sir.

Q. Was it that way when you handled this account?

A. No, sir, when I handled the account, it was beginning to show improvement.

Q. It was beginning to show improvement when you had the account?

A. Yes, sir.

Q. In other words, they were better now?

830 A. Yes, sir.

Q. In other words, there are fewer soft ones now?

A. Yes, there are fewer soft ones.

Q. So more than half of the hogs are hard that come from Moultrie?

A. I should say three quarters.
Q. Three quarters of the hogs that come from Moultrie now are hard?
A. Yes, sir.
Q. That is your best jugdment, and you have had experience handling hogs?
A. Yes, sir.
Q. By the way, what was your business before you represented Moultrie Packing Company?
A. I was a broker.
Q. And what kind of meat did you handle—what kind of goods did you handle?
A. Principally smoked meat.
Q. What accounts did you have?
A. I had Corcoran & Hill & Company.
Q. Where was that?
A. Baltimore.
831 Q. What other?
A. S. Homan & Son's.
Q. Where are they?
A. Baltimore.
Q. And what other did you have?
A. Thomas J. Kurdle.
Q. Where are they?
A. Baltimore.
Q. Did you have any others?
A. Yes, sir.
Q. And what others have you handled since that time?
A. Schludeberge Brothers.
Q. Where are they?
A. Baltimore.
Q. What other accounts did you have?
A. Yes, sir. I had a Mackerel House, a Rice House and a Flour House.
Q. What other meat accounts did you have?
A. None other than what I have mentioned.
Q. About how long have you been handling those accounts prior to the time you took the Moultrie account?
A. Oh, maybe from five to fifteen years, I suppose.
832 Q. Five to fifteen years?
A. Yes, sir.
Q. Then after you quit handling Moultrie products what meat accounts have you handled?
A. After I left Moultrie?

Q. Yes.
A. Tifton Packing Company.
Q. And what others?
A. With the Thomas J. Kurdle Company.
Q. Who was Thomas J. Kurdle Company, where are they?
A. Baltimore.
Q. They are located at Baltimore?
A. Yes, sir.
Q. And what others have you handled since that time?
A. Schludeberge Brothers.
Q. Where are they?
A. At Baltimore.
Q. And what other?
A. That is about all.
Q. You think that is all?
A. Yes, sir.
Q. Now, these Baltimore houses, their products are all cured?

833 A. Strictly.
Q. Strictly cured?
A. Yes, all cured meat.
Q. None of it fresh?
A. No, sir.
Q. The Moultrie account was the first that you had where you handled fresh meat?
A. Yes, sir.
Q. That was your first experience with fresh meat?
A. No, sir, it was not. I handled a little fresh meat for Jacob C. Shaffer and George C. Krier.
Q. Where is Shaffer?
A. Baltimore.
Q. Where is the other man you mentioned?
A. Baltimore.
Q. All at Baltimore?
A. Yes, sir.
Q. Now, that is five or six concerns you have mentioned from Baltimore?
A. Yes, sir.
Q. Now, what was the first one you mentioned?
A. Corcoran and Hill Company, I think.

834 Q. How long did you handle their account?
A. Oh, ten or fifteen years.
Q. And what did you do then, did you sell carload lots?
A. No, sir, I did not.

Q. Were you handling that account the same time you were handling the Moultrie account?

A. No, sir.

Q. Then you didn't have anything prior to the time you were handling the Moultrie account?

A. Yes, sir.

Q. How many cars would you average handling from them?

A. From whom?

Q. Corcoran & Hill?

A. I didn't handle any carload lots from them.

Mr. Taylor: I object to this examination. It is a line of cross examination entirely foreign to the direct examination and I further object to it. I thought possibly counsel had some reason for going into it. I submit this is not proper cross examination.

Mr. Horton: I submit to the Examiner's ruling without argument.

The Examiner: The objection will be sustained.

835 Mr. Horton: Do I understand the Examiner to rule that I cannot question the witness about his experience in the meat business?

The Examiner: You can cross examine him on what was brought out on direct examination.

Mr. Horton: That is what I am doing.

Q. How many cars from Corcoran & Hill?

A. I didn't get any.

Q. What kind of shipments did you get?

A. They came by train,—by freight.

Q. Shipments from Corcoran & Hill came freight?

A. Yes, sir.

Q. Would it be less than a carload?

A. Yes, sir.

Q. By the way, how many pounds of fresh meat would there be in a carload?

A. Some are heavier than others—twenty, twenty five, thirty, I have seen as many as forty.

Q. What is the minimum to a carload, the minimum cars?

A. 25,000 pounds.

Mr. Taylor: I wish to enter my objection to this line 836 of cross examination at this time.

The Examiner: The objection will be sustained.

Q. Is it not true—

Mr. Taylor: Mr. Examiner, I move to strike out the answer to that question.

Mr. Examiner: The motion to strike will be sustained.

Q. Is it not true that you have to get a minimum carload—to get a carload rate you have to get a minimum of ten pounds—ten thousand pounds, is required in fresh meat, in packing house products?

Mr. Taylor: I object to that.

The Examiner: The objection will be noted.

A. Why, yes. But you in getting ten thousand pounds—I believe you pay for 25,000 pounds?

Q. Is it not true you can get a carload rate if you only have ten thousand pounds of fresh packing house products in the cars?

Mr. Taylor: Mr. Examiner, I would like to inquire if counsel for respondent is making this witness his own witness in going into freight rates, or whether this is cross examination?

Mr. Horton: Cross examination and entirely within
837 the scope of the direct examination.

Mr. Taylor: I object. It is entirely out of the scope of the direct examination. Freight rates were not touched upon.

The Examiner: The objection will be sustained.

Q. Now, besides Corcoran & Hill—but first, you never told how much you handled from Corcoran & Hill?

Mr. Taylor: That is objected to.

Q. How many carload lots did you handle in the fifteen years you handled their business?

A. I don't know.

Q. What?

Mr. Taylor: That is objected to.

Q. What is your best guess as to that?

A. I don't know.

Q. How do you estimate it?

Mr. Taylor: I object to that.

A. How does a man estimate it when he can't tell?

Q. Is that the best answer that you can give?

A. Yes, sir.

Q. What was the other Baltimore firm that you mentioned besides Corcoran & Hill?

838 A. Homan.

Q. How did you represent them?

Mr. Taylor: That is objected to, Mr. Examiner.

The Examiner: The objection will be noted.

Mr. Taylor: That is not proper cross examination.

A. About five years.
Q. Covering what period of time?
A. How is that, sir?
Q. I say, covering what period of time?
A. Oh, I don't know, way back there—it was in 1910, something like that.
Q. Five years to 1910, that would be 1915?
A. 1915.
Q. Now, that was all smoked meat, was it?
A. Yes, sir.
Q. And how many carloads did you handle for them?
Mr. Taylor: Mr. Examiner, do I understand that all my objection goes to all of this testimony?
The Examiner: Yes.
A. I never handled any cars.
Q. In the five years that you represented them how many carloads did you handle?
839 A. I could not say?
Q. What per cent? An estimate?
A. I don't know.
Q. Is that the best answer that you can make?
A. Yes, sir.
Q. What is the name of the next firm you mentioned in Baltimore?
A. Kurdle & Company.
Q. Kurdle & Company, was that all smoked or was there some fresh meat?
A. Smoked meat.
Q. All smoked meat?
A. Yes, sir.
Q. For how many years did you buy them?
A. About 15 years.
Q. You represented Kurdle & Company about 15 years?
A. Yes, sir.
Q. Covering what period of time?
A. Well, from 1900.
Q. 1900 to what?
A. 1915 to 1918.
Q. 1915 to 1918?
840 A. No, 1910 to 1915, I said.
Q. How many cars did you handle for them?
A. I never handled any cars.
Q. In the ten years that you represented them how many did you handle?

A. I could not tell you.
Q. What is your best guess?
A. I would not like to guess.
Q. What is the best that you can say?
A. I would not try to say.
Q. Is that the best answer that you can give?
A. Yes, sir.
Q. What is the other Baltimore firm?
A. I believe that is all.
Q. That is three?
A. Yes, sir.
Q. Who is the Baltimore firm that you handled fresh meat for?
A. I handled fresh meat for Shaffer and Kriel.
Q. Now how long did you represent Shaffer?
A. About three or four years.
Q. What period of time?
841 A. About 1905 to 1910.
Q. About five years?
A. Yes, sir.
Q. How many carloads of fresh meat did you sell for them?
A. I never sold any cars of stuff it was all express.
Q. And what kind of products were you selling?
A. Nice goods.
Q. Nice goods?
A. Yes, sir.
Q. Was it pork or beef or mutton or what?
A. Yes, pork cuts.
Q. What kind of cuts?
A. Cuts.
Q. What part of the animal?
A. Pork loins.
Q. Pork loins?
A. Yes, sir.
Q. And how often would you get a shipment of those things?
A. Once a week.
Q. You got in a shipment once a week?
A. Yes, sir.
842 Q. By express?
A. Yes, sir.
Q. And how many pounds would there be in an express shipment?

A. Why, it would vary—one have two—some months it would be one or two thousand.
Q. In other words you got your shipments in—monthly?
A. No, sir, weekly.
Q. You got them weekly?
A. Yes, sir, generally on Friday.
Q. You say that some months it would be as much as two thousand?
A. I mean two thousand a week.
Q. Some weeks it would be that?
A. Yes.
Q. And it came by express from Baltimore?
A. Yes, sir.
Q. Was that sold in the Jacksonville market?
A. Yes, sir.
Q. The express rate from Baltimore to Jacksonville was pretty high, was it not?
A. It was. I believe it was about $3.75.
843 Q. An hundred?
A. Something like that.
Q. And did that pork have refrigeration?
A. No, sir, it didn't.
Q. Did you handle it all the year around?
A. No, sir.
Q. When did you handle it?
A. Only in the winter months.
Q. Only in the winter months, that would be when the weather was very cold?
A. Yes, sir.
Q. That would be two or three months out of the year?
A. About that.
Q. Now, Kriel & Company, was that fresh pork or smoked pork that you handled from Kriel & Company?
A. Mostly smoked. I had very little fresh meat business—very little.
Q. Is it worth speaking about?
A. No, sir.
Q. The volume was so small it is not worth mentioning?
A. That is it.
Q. How long did you represent Kriel?
844 A. Oh, about the same time I did Shaffer.
Q. From about 1905 to 1910?
A. Yes, about that time.
Q. Now, were there any other representatives here be-

sides those you named? Corcoran & Hill, Kurdle, Shaffer and Kriel?

A. No, sir.

Q. Did you ever handle any carload lots from Kriel?

A. No, sir.

Q. Just got shipments?

A. Yes, sir.

Q. And just during the winter months?

A. Yes, sir.

Q. Does that—the winter months also apply to the time you handled Corcoran & Hill?

A. No, sir. I handled their stuff all the year around, because I was not selling fresh meat for them.

Q. Homan?

A. The same thing.

Q. And Kurdle?

A. The same thing.

Q. Now, you were handling Kurdle's account at the same time you were handling Moultrie Packing Company's ac-
845 count, were you?

A. That was the only one.

Q. I understood you to testify before that you didn't have any other account except this Moultrie Packing Company's account?

A. Yes, sir. That was the only one that I had. It was agreed and understood that I was to give up all the others, except Kurdle. I dropped some 7 or 8 houses.

Q. And by that, do you mean you dropped Rice house, flour house?

A. The whole thing. I dropped the whole thing.

Q. And Kurdle was the only meat house that you kept?

A. Yes, sir. We had some kind of an agreement and they allowed me to carry that house. The others I dropped.

Q. That was the only meat account you had after you made the agreement with Moultrie Packing Company?

A. Yes, sir.

Q. So you didn't have any other of these accounts because you were not handling them?

A. I was handling them. I was handling the houses that I gave you the names of.

Q. Well, you previously told me that you handled
846 Shaffer's account from 1905 to 1910?

A. Yes, sir.

Q. And you said you handled Kriel's account from 1905 to 1910?

A. Yes, sir.
Q. So you didn't drop those, they were dropped long before the agreement with Moultrie Packing Company?
A. Exactly. But what I said was I gave up Corcoran & Hill's account and Homan and who was that other?
Q. Kurdle & Company?
A. No, Corcoran & Hill and Homan and Kurdle were the ones that I had at the time I took on the Moultrie Packing Company's account.
Q. Those three houses?
A. Yes, sir, those three houses I had to drop.
Q. The others you had dropped previously?
A. Yes. Schludeberge—
Q. Did you have a written agreement with Moultrie Packing Company or just oral?
A. Oh, just verbal.
Q. And as I understand it you quit handling their accounts—to take on this account?
847 A. Moultrie Packing Company?
Q. Yes.
A. Yes, sir.
Q. And you did that your own free will?
Mr. Taylor: I object to the question. He has stated why he did it and under what circumstances he did it.
Q. Did you employ any salesmen, Mr. Smith?
A. I only had my wife. I just had my wife to help.
Q. Did your wife solicit the trade?
A. She did.
Q. She assisted you in the business?
A. Yes, sir.
Q. You had an office here?
A. Yes, sir.
Q. At Jacksonville?
A. Yes, sir.
Q. Now, were you the main factor in the business or was your wife?
A. How is that?
Q. Were you the main factor in the business or was your wife the main factor?
A. I was.
848 Q. You took charge of the business, you called upon the trade?
A. I did,—yes, sir.
Q. And did your wife call upon the trade all the time or just occasionally?

A. Just occasionally.
Q. That would be when you could not get away?
A. Yes, sir.
Q. She never went out and solicited the trade as a salesman?
A. No, sir.
Q. Did she do her housework while she was representing you?
A. Yes, sir. Well, now, my sister lived at the house.
Q. Well, did she spend her time in the office?
A. Oh, no.
Q. Just a part of the time?
A. Yes, sir.
Q. She came into the office occasionally?
A. Yes, sir.
Q. Did she help with the books?
A. I looked out for most of the books, she did some.
849 Q. I see she did write some of your checks?
A. Yes, sir.
Q. Now, if you should be out of town, who took care of the trade?
A. Why I would leave it with my wife.
Q. Would she then go out and solicit the trade? Or stay in the office?
A. Whenever I would go out of town I would always take orders and the cars would be here, generally, Thursday or Friday, and I would be back in time to unload that car. You see my business from the city—there was not but very little of it.
Q. Now, you have already testified that you went to North Carolina in the first of August, 1917, and you got back in September, 1917?
A. About that.
Q. Now, who took care of the trade while you were gone?
A. Well, I gave up Moultrie Packing Company then.
Q. That is the thing you had given up prior to the time you went away?
A. Yes, sir. And them small accounts I had my wife look after them.
850 Q. You were not interested any further?
A. No, sir.
Q. Now, you testified that you saw a price list from the Moultrie Packing Company and there was one item that was increased 12½ cents a pound?

A. Yes, sir.
Q. What kind of products was that?
A. They were pork tongues.
Q. Do you mean to say that Moultrie Packing Company tried to charge 12½ cents more than other packers were selling the same products for?
A. I mean to say Swift & Company tried to get 12½ cents more—Swift & Company. Moultrie was selling out to Swift & Company.
Mr. Horton: I move that the answer be stricken out. It is not responsive to the question.
Mr. Taylor: I ask that it remain.
The Examiner: The motion to strike will be noted.
Mr. Horton: (To the Reporter) Read the last question.
The last question was accordingly read.
A. I do.
851 Q. You mean to say that the price charged by Moultrie Packing Company was 12½ cents higher than other packers here in Jacksonville were offering pork products for—is that right?
A. Yes, sir.
Q. In other words, for instance, Armour & Company were selling pork tongues for 30 cents a pound Moultrie Packing Company would be asking 42½ cents? Is that right?
A. No, sir.
Q. What do you mean?
A. I mean this—Moultrie Packing Company, their price on pork tongues was 12½ cents and when Swift & Company took it over it was 25 cents, that is what I mean.
Mr. Horton: I move to strike the answer out of the record, on the grounds that it is not responsive to the question.
Mr. Taylor: I think it is. The answer is eminently responsive to the question.
The Examiner: The motion to strike will be noted.
Q. Now, Mr. Smith, you have told us that before, I think that this is the third time you have said it in the record. But what I want to know is if when Moultrie Packing Com-
852 pany gave their raise of price as you have stated of 12½ cents per pound, was their price then 12½ cents more than the market?
A. No, it was about the same.
Q. In other words it was about the same on the market as the other packers?
A. Yes, sir.

Q. They were getting then for their pig tongues the market price?

A. That is, based upon what the western people were charging?

Q. Yes. Well, now, Mr. Smith, to be fair, you will concede that the Moultrie people had a right to get their price for their goods if they could? Did they not?

A. No, not necessarily.

Q. Not necessarily?

A. No.

Q. In other words, it is your opinion that they ought to sell for under the market?

A. No, sir.

Q. How do you reconcile your position?

A. Well, I consider western pork far superior to soft
853 pork, Georgia pork. Therefore I don't think that the soft pork should bring the price that the western pork would bring.

Q. Now, as a matter of fact, ought not the Georgia pork and Florida pork bring all you can get for it in the market?

A. Why, yes, I agree with you there.

Q. You concede that?

A. Yes, sir.

Q. And you will concede that it is fair to producers of live stock to pay as much for soft stuff as the market will bring? At the same time to make a fair profit?

A. Yes, sir.

Q. Now, you have told ot you have testified that you had a conversation with Mr. Brooks who was the manager of Moultrie Packing Company the first part of September 1917—are you sure of that?

A. I am.

Q. You are positive about that?

A. Yes, sir.

Q. You say that you saw Mr. Brooks at the Moultrie Plant?

A. Yes, sir.

Q. Do you know Mr. Brooks when you see him?

A. I do.

854 Q. Are you well acquainted with him?

A. I am.

Q. You are satisfied that you saw and talked with him at that time?

A. Yes, sir.

Q. Now, what is the biggest week that you ever had when you represented Moultrie Packing Company, what was the largest number of cars that you ever had at one week?

A. About two.

Q. Two cars?

A. Yes, sir.

Q. That was the high point in the—

A. Well, let me se,—I guess it was about three, including some lard that I sold.

Q. About three cars in one week?

A. Yes, sir.

Q. Was that the product that you sold in one week?

A. Yes, sir.

Q. Was there anything special in that transaction?

A. What is that?

Q. I say, was there anything special about that transaction—did you get a carload of lard?

A. Well, yes, I did.

855 There was one load of lard.

Q. There was one carload of lard in that?

A. Yes, sir.

Q. That was some special sale you made along them?

A. Yes, sir.

Q. To whom did you sell a carload of lard?

A. To Baker Brothers—Jeffries' Market and several others I don't remember now.

Q. In your ordinary business—your ordinary business, leaving out this occasion in which you sold an extraordinary number of cars in one week—what was the largest number of cars that you have sold in one week?

A. Well, I should say three.

Q. How many weeks did you sell three cars?

A. Two or three times previous to this.

Q. In other words, three times altogether?

A. Yes, sir.

Q. Now, was there something special in connection with the other case?

A. Just lard.

Q. In each of the occasions when you got in three carloads there was a carload of lard sold?

A. Yes, sir.

856 Q. And in the period of time that you represented the Moultrie Packing Company you on three weeks got in thre carloads of stuff?

A. Yes, sir.
Q. With the exception of those three weeks you have had—
A. As I said those three weeks are the heaviest.
Q. I say, except for this—leave out those three weeks in which you have carloads of lard—how many cars did you get in?
A. Two.
Q. Two cars per week?
A. Yes, sir.
Q. Now, how many weeks did you get in two cars per week?
A. Well, I can't tell you as to that—I can tell you as to the months much easier than I can the weeks.
Q. Well, how would it run by the month?
A. About 8 cars to the month.
Q. About 8 cars to the month?
A. Yes, sir.
Q. How many months was it in which you got in 8 cars?
A. Between 5 and 7.
Q. That is the entire two years that you represented them?
857 A. Oh, no, just one year.
Q. Just one year that you got in 8 cars per month—for how many months?
A. Do you mean two years or one year?
Q. Which do you mean, that is what I am trying to get at?
A. Well, I will say 14 months—two years.
Q. A total of 24 months?
A. Yes, sir.
Q. There were 14 months in which you got in 8 cars per month?
A. Yes, sir.
Q. And that is the most business that you ever did for this company?
A. Yes, sir.
Q. What were the weights of those cars?
A. Well, they vary.
Q. What would they average?
A. Around 30,000.
Q. Around 30,000 pounds per car?
A. 25-20, 30.
Q. I don't mean the capacity of the car, but I mean
858 the actual number of pounds of meat?
A. Yes, sir, as to the meat, that is what I mean.

Q. I understand that the Moultrie Packing Company had a consignment account with you?

A. No, sir, they didn't have.

Q. They had a record of shipments, didn't they?

A. Shipments, not made to me, but parties they sent to.

Q. But they had, you understand, the records of what they sent to you—what they sold?

A. Oh, sometimes I order things in there—

Q. No, I mean they have a record of the shipments made to you and they have the weight and the number and the date and number of cars?

A. I didn't have any such record. The only thing, as I say, I might have ordered 500 hams or I might have ordered bacon or I might have ordered loins—

Q. I said, the Moultrie Packing Company had this record?

A. Oh, they had it.

Q. Do you want to change your answer?

859 A. What should I want to change it for?

Q. Don't you think you have overestimated it?

A. Overestimated what?

Q. The weight of the cars?

A. No, I have not.

Q. Now, when did you have this talk with Mr. Wallow?

A. July, 1917.

Q. Where did you have that talk?

A. Here.

Q. In Moultrie or in Jacksonville?

A. Here.

Q. Mr. Wallow was down here to see you?

A. Yes, sir.

Q. Did Mr. Wallow tell you that you were selling his products too low?

A. I don't remember.

Q. Was not that the purpose of his visit down here?

A. No, sir. The purpose was to get in some accounts that were outstanding.

Q. Now, you never had a dollar invested in this product did you?

A. Who?

860 Q. You.

A. Yes, I did.

Q. Do you mean that you owned any of his products—that you bought it yourself?

A. Yes, sir, very often I bought some, and shipped it in my name.

Q. Yes, I understand, you are a broker—you got this product on commission?

A. Yes, sir.

Q. That was the way—you bought it direct and sold it on commission?

A. Yes, sir.

Q. You got your commission no matter what price you sold it for?

A. Yes, sir.

Q. Your interest was to get sales and get the commission, was it not?

A. Yes, sir. I also got commission on what I ordered in my own name.

Mr. Horton: That is all.

861 *Direct Examination by Mr. Taylor.*

Q. Mr. Smith, did you find it possible to sell Moultrie products at western prices while Swift was selling it at Moultrie prices?

Mr. Horton: I object to that, there is no evidence of any such thing being done.

Mr. Taylor: I think that it is very clear that it is.

Mr. Horton: The witness testifies that he saw one or two sales—

The Examiner: The objection will be noted.

A. Why, no.

Q. Did you try to sell goods at the new prices given you?

A. I did.

Mr. Horton: I object to that. It is too indefinite, the time the witness stated.

The Examiner: The objection will be noted.

Q. What did you do?

A. Why I tried to get the price—I could not.

Q. What was the result of your effort?

862 A. I just gave the account up. I notified them over the telephone—

Q. You say you tried to sell, what was the result of your efforts?

A. I could not sell but very little.

Q. Now, you referred in your cross examination to west-

ern people—I would to ask you if by that exception you meant to include Swift & Company?

A. Oh, yes, sure. Swift & Company and Morris and Cudahy, Armour—

Mr. Horton: They are all in business here are they not?

A. Yes, sir.

Mr. Horton: Lots of competition?

A. Very keen.

Mr. Taylor: That is all.

Recross Examination by Mr. Horton.

Q. When did you get these prices, Mr. Smith, from Moultrie Packing Company? That you spoke about? This big raise?

A. About June or July, 1917.

863 Mr. Taylor: Do you know whether it was while Mr. Wallow was at Moultrie that you got the increased prices?

A. Yes, sir.

Mr. Taylor: Was Mr. Wallow there at the time?

A. He was the manager—yes, sir.

Q. He was manager of Moultrie Packing Company in July, 1917?

A. Yes, sir.

Q. I thought Mr. Brooks was manager?

A. Well, Mr. Wallow was—Mr. Brooks was manager in a way and then he was not. Mr. Wallow—

Mr. Taylor: Explain just what you mean? When did Mr. Wallow come in and just what was his relation?

A. All I know about it Mr. Wallow was sent here he told me with his own mouth that he was sent here from Chicago to take charge of Moultrie Packing Company for the time being. Brooks told me that he was going to stay there a month with them.

Q. It is not a fact Mr. Wallow was a book keeper, an accounting man?

A. That may be.

Mr. Taylor: Did he tell you who sent him from 864 Chicago?

A. Swift.

Mr. Taylor: Swift & Company or Swift?

A. Swift & Company.

Mr. Horton: I move to strike this out on the grounds that it is hearsay.

A. He might have been an auditor or a book keeper but I understood him to say that he was the manager over there.

The Examiner: The motion to strike will be noted.

The hearing will adjourn until 10:00 o'clock tomorrow morning.

And thereupon at 9:30 o'clock p. m. an adjournment was taken until Tuesday morning at 10:00 o'clock.

865 Tuesday, March 22, 1921.

Federal Building, Jacksonville, Fla.

The Hearing met pursuant to adjournment.

Appearanced: The same as of Monday, March 21, 1921:

The Examiner: The Hearing will come to order:

DAVID A. DUNAWAY, called as a witness, and being first duly sworn, testified as follows:

Direct Examination by Mr. Taylor.

Q. What is your full name?

A. David A. Dunaway.

Q. Where do you live?

A. I live at 1326 Main Street.

Q. Jacksonville, Fla.?

A. Yes, sir.

866 Q. In what business are you engaged?

A. I am in the butcher business.

Q. Selling at wholesale or retail?

A. I am selling at retail.

Q. How long have you been engaged in the butcher business?

A. In that one place—I have been there five years, and four months.

Q. When did you start business here?

A. December, 1914, and in the first of it.

Q. And in the course of your retail butcher business what kind of meat do you handle?

A. All kinds, pork beef, sheep, chickens.
Q. Various cuts of pork?
A. Yes, sir. All cuts.
Q. Fresh, soft, and smoked?
A. Yes, sir, I handled all of them.
Q. Do you know Sam Smith?
A. I do.
Q. How long have you known him?
A. Well, sir, I can't tell you that but it must be about 12 years, between 10 and 12 years.
867 Q. Have you done business with him since that time, December, 1914, when you opened your present business?
A. Yes sir.
Q. In what way have you done business with him?
A. He sold me meat of all kinds, pork, fresh hams, butter.
Q. In what way did you regard his—in what kind of business was he engaged in?
A. Well, he was a broker I suppose you would call him, he represented an account in some other place and shipped here and I paid him.
Q. Now, when you first started in from him, whose account did he represent? Do you know?
A. If I remember aright it was Kurdle of Baltimore. He had another account to, but I forget what it was. It was a cake account. He used to sell lots of that stuff.
Q. Do you know whether or not in time he represented Moultrie Packing Company?
A. Yes, he did.
Q. When did he represent Moultrie Packing Company?
A. Well, the date, I don't remember that.
868 Q. Was it a long time or a short time after you commenced to deal with him?
A. I began dealing with him just as soon as he got into town.
Q. But you began dealing with him as a broker before he got the Moultrie account, didn't you?
A. Yes, I was dealing with him all the while.
Q. Can you recall how soon it was that he got the Moultrie account after you commenced dealing with him as a broker?
A. No, I don't remember exactly.
Q. Can you remember whether it was two months, six months—as soon as he got it?

A. Yes, sir. I was one of the first ones that gave him an order when he came out to take orders for that company. I gave him an order.

Q. How did you know that?

A. Well, I know that—I know that he regarded me as one of his best customers, I know he always called upon me.

Q. You were one of his first customers?

A. Yes, sir. I was one of Uncle Sam's first customers.

Q. Did he talk with you about getting the account be-
869 fore he got it?

A. Yes, sir.

Q. Do you recall when it was that you had this conversation with him?

A. No, sir.

Q. What was it that was said?

A. Nothing more than that he was going to have a good account, he was going to change from the ones that he had and that I could get all the stuff, get more stuff than I was getting.

Q. Did he tell you what it was?

A. Yes, sir. Fresh hams and any and all kinds of pork cuts.

Q. Now did he come in later and say that he had this account?

A. Yes, sir.

Q. Did he say what account it was?

A. Well, naturally I knew.

Q. Did he say what Company it was that he was with?

A. Well, now I don't know that I remember that.

Q. Now you say that you knew what company it was—what company was it?

870 A. The Moultrie Packing Company. And before that I think he had the Tifton Company. But I think he had some trouble about the stuff or they didn't do to suit him about the orders, he was working on commission, and they cut him short.

Q. Well, when he came to representing the Moultrie Packing Company, did you buy from him?

A. Yes, sir. I did.

Q. What did you buy?

A. Pork, pork hams, pork loins, shoulders, chitlings, pig feet, spare ribs, back-bone, pig tail, sausages of different kinds.

Q. And that is all fresh pork?

A. Yes, sir.
Q. And did you buy smoked pork?
A. Yes, sir. Smoked pork, hams and shoulders from him.
Q. Did you buy any whole beeves?
A. I bought whole beeves, things like that.
Q. Did you buy any smoked beef?
A. No.
Q. And this beef was Moultrie Packing Company beef?
A. Yes, sir. That is where it came from. I bought it of him from Moultrie—didn't buy much but I bought some.
871 Q. During that time you were buying Moultrie products, through Sam Smith, were the salesmen of Swift & Company calling upon you?
A. Yes, sir.
Q. And what character of goods, what kind of goods were they offering to sell you.
A. They were offering me western meat.
Q. What kind.
A. Pork all kinds of salt goods, bacon, ham, butter and eggs.
Q. The same stuff you were buying from Moultrie Packing Company?
A. The same cuts I was buying from them, Moultrie Packing Company. But they were western things.
Q. Now, do you remember when a time came that Sam Smith stopped soliciting your trade.
A. I remember he stopped—yes, sir.
Q. When was that?
A. I couldn't tell you—I don't remember.
Q. Did you have any talk with Sam about that time in regards to stopping?
A. He told me that he would have to quit on account
872 of the prices the way they had advanced.
Mr. Horton: I move to strike the conversation between the witness and Mr. Smith on the grounds that it is hearsay.
The Examiner: The motion to strike will be noted.
Q. What sort of prices had you been paying for this Moultrie product compared with the prices of western meat?
Mr. Horton: I object to that as being to indefinite. There is no time fixed for the sale nor is the kind of product specified.
The Examiner: The objection will be noted.
Q. Take for instance the fresh product, loins, and along

during the same time, the entire time that Sam Smith was selling them to you, up to, say the end of June, 1917, from the time that he commenced, can you recall about how prices run with reference to western products of the same kind?

Mr. Horton: I object to that as being too indefinite.

The Examiner: The motion will be noted.

A. No, sir, I don't remember, I couldn't tell you, the exact difference in price, but it was about always from
873 2 to 5 cents difference in the western products and the Florida products, it is according to the time in the season, when the season opens up for Florida products—everybody wants to kill, and when the market gets flooded that way, it brings the market price down and then when they quit the market goes back up. But as I say there is always from 2 to 5 cents difference in western and Florida products or Georgia pork.

Q. Well, does that answer include loins and hams and shoulders that we are speaking of—any kind of pork?

A. The Florida pork that you were speaking of, that is cheaper.

Q. In all cuts?

A. All run about the same, not much difference in them and the western cuts.

Q. Now, can you recall whether or not there came a time when Sam Smith called upon you and demanded prices—that is demanded a higher price relative to western pork for the same cuts?

A. Well, yes—his price was advanced on the Moultrie pork on all the cuts.

Q. Can you remember when that was?

A. No, sir.

874 Q. Can you remember when it was with relation to the time when you stopped buying from him?

A. Well, sir, it was along about the time that I stopped buying.

Q. Did you buy from him after these advanced prices?

A. If I did, it was a very little. I don't remember exactly. I think I switched my trade then to another man that had Chipley, his prices were better than Sam's.

Q. Did you have any conversation with Sam about the prices at that time?

A. Sam told me that he had to give up the account on account of the prices.

Mr. Horton: I move to strike out the testimony on the grounds that it is hearsay, not the best evidence.

The Examiner: The motion will be noted.

Mr. Taylor: I think it is the very best of evidence as to what was going on at that time—it is part of the res gestae.

Q. Now, do you remember whether he did give up the account shortly after this?

Mr. Horton: I object on the grounds that it is not the best of evidence. Smith has testified about that himself.

875 Mr. Taylor: I will change the form of the question.

Q. Do you remember whether or not Sam Smith stopped offering the Moultrie pork for sale shortly after you had this conversation with him?

A. I don't remember.

Q. Do you remember whether or not—do you remember when he did stop offering to sell it?

A. No, sir, not exactly.

Q. Do you remember that he did stop offering to sell it to you?

A. Yes, sir. I do remember that.

Q. In that conversation with Sam Smith did he say why he was required to ask a larger price?

Mr. Horton: Now, I object to that. I object to any conversation between the witness and Sam Smith. Mr. Smith has testified fully and any conversation which may have been had by Sam Smith and the witness would not be binding upon the respondent. I object on the further grounds it is hearsay.

The Examiner: The objection will be noted.

A. The only thing that I remember exactly what he said was that he just could not work with Swift & Company and the reason why was that they wanted so much for their

876 goods that he could not sell them on account of the advanced prices—though he could not sell the goods—it was over the price—competition was over their price at the time—higher than his competitor.

Mr. Horton: I move to strike the entire answer on the grounds that it is hearsay.

The Examiner: The motion to strike will be noted.

Q. Do you mean the prices were higher than on the soft pork?

A. No, sir, on the fresh pork.

Q. How did his prices compare with the western products of the same cuts?

A. I don't remember just now, but there was always a difference.

Q. No, I mean the new prices Sam Smith said had been given him?

Mr. Horton: I object to the conversation between the witness and Sam Smith.

Mr. Taylor: This has nothing to do with the conversation, I am asking for the market prices.

Mr. Horton: The market price can speak for itself. You asked for something someone said he could not get. I object on the grounds it is hearsay.

877 Mr. Taylor: I suggest that the question be read for the benefit of Counsel.

Mr. Horton: For the benefit of Counsel for the Commission, the counsel for the respondent knows what the question was.

And thereupon the Reporter read the last question.

The Examiner: The objection will be noted.

Q. Now did it compare with the western pork—the same cuts—that is the question.

A. Of course sometimes, as I have said—

Q. Never mind—how did it compare with the prices for the same kind and same cuts of western pork, that is the question.

Mr. Horton: Mr. Examiner, I suggest that the witness be allowed to finish his answer. Counsel for Commission has no right to make him his own witness, nor to stop him until he has finished his answer.

Mr. Taylor: Alright, if you want to have the witness finish his answer I will ask him to do so.

A. Well, I was going to say that I don't know whether it was because Swift & Company bought the Moultrie Packing Company or not, that caused the advance in pork cuts.

Mr. Horton: Or whether it was advanced in the market?

878 A. I don't know whether it was but as I stated at the beginning it was always less than the western pork, 2 to 5 cents cheaper than the western cuts but I don't remember whether it was on account of Swift & Company buying this man out that the advance in the market occurred.

Q. What I am trying to get out is was this advance in Moultrie pork accompanied by a corresponding advance in western pork or was it that the Moultrie pork only was advanced?

A. I don't remember.

Q. About what proportion of the pork that was handled during this period of time was Moultrie pork and what proportion was western pork—I mean the pork that you handled?

Mr. Horton: I object to that for the reason that it is asking for the opinion of the witness of what occurred 4 or 5 years ago when the facts are too remote for him to guess at.

The Examiner: The objection will be noted.

A. Well, that is a hard question to answer, but I always handled both kinds on account of some of my customers wanting western pork and if they wanted it I gave it to them. If they wanted Georgia pork I gave that to them, but I sold more Georgia pork than I did western pork, I didn't
879 carry western loins.

Q. How about smoked meat?

A. I had quite a lot of smoked meat, Georgia smoked meat was not as good as the standard western smoked meat.

Q. You also carried the western smoked meat?

A. I always cut a western standard ham.

Q. You mean the western hams that you sold you sold as cuts?

A. No, I don't say all of them. I sold some whole, but in addition to that I sold quite a few of cuts. There is another thing about the Georgia pork, you can get small hams. You can't get small western hams.

Q. How about the smoked shoulders?

A. Some of them, I have got them.

Q. Both fresh and western?

A. I handled only western shoulders when I can get the Georgia shoulders, because they are all salty and eat alike.

Q. How about bacon?

A. Smoked bacon?

Q. Yes.

A. I used a little of that, not so very much—not so overly much smoked bacon.

880 Q. Did you also carry western bacon?

A. Yes, sir.

Q. Which do you handle most of?

A. Western.

Q. Fresh?

A. No, western. That I liked myself, the western—

Q. And this was during the period when Sam Smith was selling you western products?

A. Yes, the whole entire period.
Q. Now, are you carrying Moultrie products at the present time?
A. No, sir.
Q. Have you carried them to any extent since Sam Smith stopped selling them?
A. No, sir.

Cross-Examination by Mr. Horton.

Q. Mr. Dunaway, when you testified about Swift & Company buying Moultrie Packing Company out you made that answer upon rumors that you had heard?
A. Yes, sir.
Q. And you didn't know whether it was bought or not?
881 A. No, sir. It was all just what I heard about it—
Mr. Horton: Mr. Examiner, I now move to strike out the answer of this witness with regards to the buying of the Moultrie plant by Swift & Company.
The Examiner: The motion will be granted.
Q. Now, by soft pork, Georgia pork do you mean the character of pork raised throughout the south?
A. Yes, sir.
Q. Raised in Florida and in Georgia?
A. Yes, sir. You will find a little at every place they handle it.
Q. Throughout the South?
A. Yes, sir.
Q. As I understand it that pork is soft?
A. Yes, sir. As a rule it is—not always, but as a rule. The biggest part of it is.
Q. Well, the northern and western pork is firm?
A. Yes, sir.
Q. And the western pork can be handled to better advantage?
A. Yes, sir. I suppose so.
Q. It keeps better?
882 A. Yes, sir.
Q. There is not so very much waste?
A. Yes, sir.
Q. There is not so much loss in handling?
A. Yes, sir.
Q. Now, is that soft pork available to you in this market?

A. I think there is some shipped in here now, but I don't handle it.

Q. You don't handle it because you don't care to handle it?

A. Swift & Company spoke to me about it last week—said, "We have got Moultrie pork and western pork."

Q. Swift & Company told you that last week—that they had western and Moultrie pork?

A. Yes, sir.

Q. And you know that has been true since 1917?

A. Well, something like that. I couldn't say positively about that,—about that date.

Q. Now, Armour & Company have a packing plant in the outskirts of the town, have they not?

A. Yes, sir.

883 Q. And they kill southern pork there, do they not?

A. Yes, sir.

Q. And it can be bought there, can it?

A. Buy it here—not there.

Q. You get it from their branch house, right down here on Bay Street, don't you?

A. Yes, sir.

Q. And then the Jacksonville Cattle Company, they slaughter hogs there, don't they?

A. Yes, they sell the whole hog, I don't think they cut any.

Q. They sell the whole hogs, but you can buy the whole hog from them?

A. Yes, I buy from them.

Q. You do buy from them?

A. Yes, sir.

Q. As a matter of fact, don't they have quite a sale?

A. Ever since I have been in business.

Q. They have had ever since you have been in business?

A. Yes, sir. I buy from them but not exclusively, I buy from every body that sells.

Q. Who did you buy from?

884 A. Swift & Company, Armour, Jacksonville Cattle Company, Jones & Chambliss, Morris & Company—I haven't bought any from Cudahay because they don't handle it—maybe they do, but I didn't buy from them.

Q. Do you buy from Wilson & Company?

A. No fresh pork.

Q. You did buy smoked meat from them?

A. No, I bought a little fresh beef from them, just occasionally.

Q. All those firms have houses in Jacksonville?

A. Yes, sir.

Q. In wholesale meat business?

A. Yes, sir.

Q. They are in the wholesale meat business, soliciting the trade for the various products?

A. Yes, sir.

Q. And that is true and has been true since 1916 and prior thereto?

A. Yes, except Jones & Chambliss.

Q. And I understand it is true of them after the time they started up business?

A. Yes, sir.

885 Q. Now, did you buy very much beef from Mr. Smith?

A. No, sir.

Q. What kind did you get from Smith?

A. I got some good and some sorry, that is why I quit.

Q. What do you mean by sorry?

A. Poor—not fat.

Q. It was thin?

A. Yes, sir.

Q. About the color—

A. Well, you know what a poor cow is if you ever saw one, well it ain't fit to eat.

Q. Not fit to eat?

A. No, sir. And I would hate to buy cattle from them and it come in poor,—bad. And they had that. They sent me some good and then sent me some bad and I quit, because I could get good elsewhere.

Q. You manufactured some sausage?

A. I manufactured nothing but sausage meat, it is cheaper for me to buy.

Q. Sausage meat?

A. Yes, sir. I made a little sausage meat.

886 *Redirect Examination by Mr. Taylor.*

Q. You testified that you didn't handle any Moultrie pork at the present time?

A. No, sir, I don't.

Q. How long has it been since you handled Moultrie pork?

A. I don't remember.

Q. Do you remember handling any of any consequence since Sam Smith stopped selling?

A. Yes, sir, very little.

Q. Does the price have any thing to do with your stopping selling it?

A. Yes, sir.

Q. Will you state what it has to do with it?

A. Well, if I can't get the Georgia pork so that I can offer to sell it for 5 cents less than the western pork, I won't handle it.

Q. Well, what is the present situation?

A. Well, I don't know, I haven't bought any. I haven't tried to buy any.

Q. When did you stop trying?

887 A. I don't remember. It has been some time.

Q. Now, you testified that there was a rumor that Swift & Company had bought out Moultrie Packing Company, which statement was stricken out. For the purpose of locating the time when the increase of price for Moultrie products was demanded by Sam Smith, I will ask you this question: Was the increase of price so demanded before or after that rumor prevailed?

A. I don't remember.

Q. What about the time—do you remember whether the two occurred about the same time?

A. No, sir, I could not say positively.

Q. May it have been some time before?

A. Only from what Smith told me before.

Q. But at the time he told you the increase in price—will you state again what he said?

Mr. Horton: I object, your Honor, if you please, that question has been gone over and was objected to at the time as being hearsay exidence and I still object.

Mr. Taylor: I am not offering it for the purpose of showing that Swift & Company did buy the Moultrie Packing

888 Company, but simply to fix the time when the increase in prices took place, whether it was at the time these rumors were going about. I am not trying to prove the correctness of these rumors. It is not necessary for me to do that, the fact that they prevailed, that is an evidenciary fact, proper to go into this record, but it is very important to fix the time of the increase in prices.

The Examiner: The objection will be noted.

Q. Will you state just what he said?

Mr. Horton: I renew my objection.

The Examiner: The objection will be noted.

A. Well, I don't remember exactly what he said, no more than that he told me that he could not work for Swift & Company because they were shooting his prices up above his competitors—which as I said before I don't know whether it was the condition of the market or whether the other men were reducing to get business.

Q. Do you know why he mentioned Swift & Company?

A. Because he losing out, had not got the business that he had been getting, that was his statement to me.

889 Q. Now was this at the time of the prevailing of the rumors that Swift & Company had bought that branch out?

Mr. Horton: Is it understood that my objection continues?

The Examiner: Yes.

A. It was about that time—I could not say exactly, but about the time the rumors prevailed about that transaction.

Q. Do you recall whether or not Smith ever mentioned Swift & Company's name to you before the time that this rumor was prevailing?

Mr. Horton: I objected to that on the grounds that it is immaterial and incompetent.

The Examiner: The objection will be noted.

A. No, sir.

Q. Do you mean that you do not recall or that you did not?

A. I don't recall, I don't remember.

Q. Do you remember whether the name of Swift & Company was mentioned, whether it ever come up in the conversation before you heard of this? That Swift had bought Moultrie plant?

A. No, sir.

890 Q. Could you handle to advantage the Moultrie pork if you could buy them now at the same differential that you bought from Mr. Smith?

A. No, sir.

Mr. Horton: I object to that. The witness has testified that he didn't want to buy unless he could buy 5 cents a pound cheaper.

A. No, sir—not now. It is too hot.

Q. Suppose you could buy at the same price you could buy from Smith—

A. No, sir, it is too hot, we don't buy in the summer time

like we do in the winter, we don't buy from Smith in the summer time, we bought only in the cold months.

Q. Take the seasons that you bought from Smith, I will ask you if you could get it at the same price you got from Smith and in the proper season could you handle Moultrie pork to advantage if you could buy it as you did buy from Sam Smith?

Mr. Horton: I object. He is asking the witness to speculate, and it would be dependent upon the market conditions, the conditions of the trade and other things.

Q. That is what I am trying to find out.

The Examiner: The objection will be noted.

891 A. If I could buy the pork in the winter time at the price that I bought from Sam Smith, sure, I would be glad to, handle it, but the market is higher now than when I bought from him—higher than when I bought Moultrie products from Sam Smith.

Q. Please explain what you mean.

A. Bring more money.

Q. What?

A. Pork hams, pork shoulders, loins.

Q. Are you talking about western pork or southern pork?

A. I am talking about southern pork.

Q. There is not the same differential at the present time as there was when Sam Smith was offering you the Moultrie products?

A. No, sir. Just as much.

Mr. Taylor: (To the Reporter.) Read the last question.

Thereupon the last question was accordingly read.

A. I didn't say that there was not the same prices, I don't know—I don't know what they asked for Moultrie pork at the present time. I know the price of western pork is high enough and going higher, but what Moultrie pork is, I don't know.

892 Q. You testified that you bought Moultrie pork at 5 cents less than you bought western pork?

A. Yes, sir.

Q. Now, if you could buy Moultrie pork at 5 cents less than you could buy western pork could you handle it today?

A. No, sir.

Q. Taking the season of the year, the proper season, could you handle it?

A. Oh, yes, sir, in the proper season, that would be alright. Take it in the winter time I would be glad to handle it.

Q. In the winter time you would be glad to handle it?
A. Yes, sir. But not in the summer. I don't want to handle it in the summer.
Q. You dont handle it in the summer months? You did not when you bought from Smith?
A. No, sir.
Q. Taking the seasons of the year that you handled it at the time you bought from Sam Smith, you could handle it in the same way now?
A. Yes, sir.
893 Mr. Horton: If the Examiner please, I move to strike out the last answer of the witness on the grounds that it is speculative and assumes conditions without taking into consideration other factors.
The Examiner: The motion to strike will be noted.

Cross-Examination by Mr. Horton.

Q. These conversations between you and Mr. Smith—you do not pretend to state what Mr. Smith said was true? Or not?
A. No, sir. I don't say.
Q. You don't know whether it was true or not?
A. No, sir.
Q. Mr. Horton: That is all.

Redirect Examination by Mr. Taylor.

Q. You know that it is true anyhow that he demanded more money for the Moultrie products at the time he told you he had to do so?
A. He said so—yes, sir.
Q. You know that it is stated that he did ask more for it, don't you—you know that he asked you higher prices?
894 A. Yes, sir. I don't know whether it was exactly at that time or just before he quite he was asking more money.

Recross Examination by Mr. Horton.

Q. You don't know that he asked more than the market price?
A. No, sir.

Q. You don't know whether it was a rise in the market or not?

A. No, sir.

Mr. Taylor: Q. You know that he told you that he would be obliged to ask for more, and that he did ask for more?

A. Yes, sir.

Mr. Taylor: That is all.

And thereupon the witness was excused.

---

895 WILLIAM D. CORDRAY called as a witness for the Commission at Jacksonville, Fla., on March 22, 1921, after having been duly sworn, testified in substance as follows (1492-1533):

That he has been engaged in the retail meat business in Jacksonville, Fla., since 1916; that he purchased Moultrie Packing Company products from Sam Smith as long as Sam Smith represented that concern but he could not remember the exact dates; that the products he purchased from Sam Smith packed by the Moultrie Packing Company included fresh meat, pork, etc., and cured hams; that during the time he was buying Moultrie products from Sam Smith a salesman from Swift & Co. offered to sell him a full line of products including pork, hams, etc., as well as smoked meats; that he handled both western and Moultrie products at the same time; that he was unable to find any record of purchases from the Moultrie Packing Company but he estimated his purchases from Moultrie amounted to from $15.00 to $300.00 per week during the winter season, December, January, March and April; that some time in 1917 Sam Smith told him that he was not handling the Moultrie account; that he did not buy any Tifton products from Sam Smith; that he buys Georgia pork from Swift & Co. and from Armour & Co. at the present time, but that in his business now he handles only western products because they stand up better; that
896 he is catering to a different class of trade now than he was at the time he was handling Moultrie products. The prices varied according to the market.

Cross-Examination by Mr. Horton.

Q. You don't handle the Southern or native pork now in your place of business, you say?

A. Only very occasionally, once in a while, as the class of trade I have now does not call for that class of pork.

Q. What is the class of trade that you are catering to now?

A. The higher class, select trade.

Q. Explain more fully what you mean by that.

A. People who come in and want to buy cuts of meat—choice cuts, high grade meat.

Q. And who are willing to pay more for their meat?

A. Yes, sir, willing to pay more for their meat, than for stuff not as firm as—a different kind—a better quality, and they are willing to pay for the better quality.

Q. They are willing to pay for a better quality?

A. Yes, sir.

Q. And choicer cuts?

A. Yes, sir.

Q. And better texture of meat?

A. Yes, sir.

Q. And a better color?

A. Yes, sir.

Q. And is better looking and tastes better?

A. Better looking, tastes better, and also—

897 Mr. Taylor: Mr. Examiner, I object to these questions on the grounds that they are indefinite, uncertain and do not relate to the direct examination. This question shows that counsel is talking about a very different product. I move to strike out the answer.

The Examiner: The motion to strike will be noted.

Q. What kind of meat did you have in mind when you made these answers?

A. Both beef and pork.

Q. But particularly pork?

A. Not particularly anything—

Q. You had the different pork cuts, pork loins, pork hams, shoulders, smoked meat?

A. Do I handle them?

Q. Did you have that in mind?

A. No, sir, not in particular. I was speaking of western meat—not particularly of that, just in general.

Q. Would the same line of reasoning apply to the various pork cuts, such as hams, shoulders?

A. Practically—loins, hams, shoulders,—
Q. And smoked meat also?
A. And smoked meat also.
Q. In fact all the various pork cuts?
A. Yes, sir.
Q. All of them?
A. Yes, sir.
Q. And what class of trade were you catering to before you moved to your present location, which was the same time that you were buying meat from Mr. Smith?
898 A. Why, it was a class of trade that was looking for cheaper cuts and cheaper prices—the public in general.
Q. And did you advertise your wares at that time?
A. Yes, sir.
Q. And did you offer special products then?
A. Yes, sir.
Q. And cut rates?
A. Yes, sir.
Q. And did you advertise at prices that showed that you were selling at prices cheaper than the market?
A. Yes, sir. I had the best prices on pork and fresh pork.—
Q. And you offered—
A. —To endeavor to sell the products.
Q. You endeavored to fulfill your offers?
A. Yes, sir, as I advertised.
Q. Now, did you buy any of the native products or Georgia product from anybody except Sam Smith?
A. Yes, sir.
Q. From whom?
A. From different ones that offered to sell to me some native stuff in Florida, in Jacksonville, and from farmers.
Q. Could you please mention some of the names of the people from whom you bought?
A. I have no recollection of their names.
Q. You have no recollection of their names?
A. No, sir, not the farmers. The farmers offered it to sell, and I bought it.
899 The farmers come in often. They will have two or three hogs they have killed themselves, and he would buy from them. The Jacksonville Cattle Company were selling native whole pigs, slaughtered and dressed, but he doesn't believe he bought but little from them. He also bought the native or soft pork from the Macon Packing Com-

pany and from the Tifton Packing Company. He has now been buying from Swift & Company, Armour & Company, Cudahy Packing Company, Morris & Company, Kingan & Company, Martin & Company of Baltimore, The Independent Packing Company of St. Louis and Bergin & Company from Chicago, also Wilson & Company. Those firms all sell at this market and have representatives here selling mostly western products.

Redirect Examination.

Q. Did you ever eat any of the soft pork yourself?

A. Yes, sir. At different times I have.

Q. Was it good fresh meat?

A. Yes, sir.

Q. How does the flavor of the soft pork or peanut fed pork compare with the flavor of the western pork?

A. Well, the flavor is—it is according to the way it is cooked. Some of it has a fresher taste, a green taste.

Q. Don't you have certain customers who prefer the flavor of the peanut fed pork rather than the flavor of the western pork?

A. Yes, we have some customers who would ask for the Florida or native pork.

900 Q. And is that the same as the soft or peanut fed pork?

A. Practically the same thing. Some of it is fed on swill and some on peanuts.

Q. How is this pork account generally known, as Florida pork, Moultrie pork or what? By the people generally?

A. Known as Georgia pork.

Q. Now, do you have certain customers who prefer that Georgia pork to other pork?

A. Well, some customers, yes. Some customers will ask for pork hams, pork shoulders, for Georgia pork hams and Georgia pork shoulders.

Q. Do any of your customers now at your present place of business, 336 Main Street, ask for Georgia pork cuts?

A. No, sir. Very seldom. It is very seldom that we have customers ask for Georgia pork cuts? Sometimes they ask, "Is this Georgia meat?" What cuts I have handled last year have been altogether western pork loins and I have handled a few native pigs.

Q. Now, while you handled this native soft pork at your

place of business did you have people call for it or ask if it was Georgia pork?

A. Occasionally, yes, sir.

Q. Now, please see if you can state a little more definitely the time when you were buying the Tifton pork from Mr. Smith and also the Macon pork from Mr. Smith?

A. Well, I have the dates mixed. I never paid very much attention to it whether it was before or after I had been buying—I had been buying from Mr. Smith for some time.

Q. You are very certain that you did buy them from him?

A. I am sure that I bought those goods from him, but I can't recollect definitely the date—exactly the month or the year.

Q. Now, did you hear of any complaint from your customers about those goods?

A. Not any in particular. They might have said it was fat or something like that.

901 Q. The same as you might have had complaint about the meat from any of the other stores?

A. Yes, sir.

Q. Why did you stop buying Tifton pork from Mr. Smith?

A. Well, on account of the later—it seems that he could not deliver the goods on time or he had lost the account. I am not sure which but I never did handle as much stuff from him in the summer as I did in the winter. In the summer, I would not buy sometimes for two or three weeks.

Q. That was in the summer time?

A. Yes, sir, in the summer time. On account principally of the way it holds up. I can't remember how he lost the account or how he happened to quit.

Q. How long a time intervened between your orders in the winter time?

A. In winter time, once a week.

Q. Now take the Macon account, why did you stop buying the Macon products from Sam Smith?

The reason why he quit handling the Southern pork and commenced handling the Western pork is—most of his customers want better meat and he kept it. The Western pork keeps better in the warmer months of the year—keeps longer, doesn't get sticky, and will hold up longer than the Georgia pork will. There is also less waste from shrinking. The Southern pork is very oily. Feeding peanuts to a hog will make it soft.

Redirect Examination.

The difference between the price of Western pork and Southern pork varied—three to four cents, probably five cents situated; it varied according to the way the market was situated. This difference did not apply to Moultrie
902 pork only, but to all Southern pork in general—Florida pork and Georgia pork.

Q. Now, going back to the question of your reason for discontinuing the southern pork, I will ask you if the prices you had to pay for the southern pork didn't have something to do with your stopping handling it?

Mr. Horton: I object. This is not redirect examination.

The Examiner: The objection will be noted.

Mr. Taylor: The answer shows that the question was not understood before, and was not responsive to the question.

I will ask the Reporter to read the question.

And the question was accordingly again read.

A. No, sir, not altogether.

Q. Not altogether?

A. Because I have handled this pork off and on since these salesmen have been calling on me. When I don't have salesmen calling on me why naturally I don't buy the pork. Probably, if they had continued to call upon me I would have continued to buy the pork from them.

Mr. Taylor: That is all.

Re-recross Examination.

All kinds of pork can be bought on this market, and if you want anything and show a disposition to be interested in anything and call for it, the salesmen will be around to offer it to you.

903 Counsel for Commission and for Respondent have together, examined the checks of the stub-book received in evidence as Exhibit No. 133, and for the purpose of eliminating the unnecessary and irrelevant matter from the record. Stipulate:

That the only part of this Exhibit which is relevant to the case are the stubs showing the drawing of the following checks:

No. 1001 August 17, 1917.
Moultrie Packing Company, Globe Market,
1 a/c $7.00

No. 1015, 1/12/17
Moultrie Packing Company, Belton & Co.
in full 10.00
No. 1019 9/13/17
Moultrie Packing Company, A. S. King,
in full 15.60
No. 1023, 9/18/17.
Moultrie Packing Company, W. Bay St.
Mkt. Inv. 913 81.92
No. 1024, 9/18/17
Moultrie Packing Company, Crax. 6,
Mkt. Inv. 9/13/17 38.83
No. 1025 9/18/17
Moultrie Packing Company, United Mkt.
Inv. 9/13/17
No. 1026 9/18/17.
Moultrie Packing Company, Rizk Bros. 1.35
No. 1030 9/19/17
Moultrie Packing Company, J. C. Fitz-
patrick. Inv. 9/13/17 10.08
904 No. 1031 9/19/17.
Moultrie Packing Company, M. A.
Mazourg. Inv. 9/13/17 $13.50
No. 1032 9/20/17
Moultrie Packing Company
C. L. Yates, Inv. 9/13/17 31.99
No. 1036 9/24/17
Moultrie Packing Company,
C. L. Yates, Inv. 9/17/17
In full 10.84
No. 1053 Oct 9/17
Moultrie Packing Company Cracker 6.
Mkt. Inv. 9/17 12.28

It is further stipulated that the above recital may be received in lieu of the Exhibit No. 133, and that the Exhibit may be returned to the witness, Samuel T. Smith.

(Mikle Schemer recalled See abstract after page 1237.)

905 JAMES T. FITZPATRICK called as a witness for the Commission at Jacksonville, Fla., on March 23, 1921, after having been first duly sworn, testified in substance as follows (Pages 1585-1616):

That he has been engaged in the retail grocery and meat business in Jacksonville, Fla., for seven or eight years; that he bought pork cuts, whole pigs, liver, hearts and similar products from the Moultrie Packing Co. in 1916-17, maybe as far back as '15, through Sam Smith, who was their representative, but according to his records the last purchase made from the Moultrie Packing Company through Sam Smith was September 13, 1917; that his earliest record available covers purchases beginning April 21, 1917 down to January 1, 1919, and that this record shows that he made weekly purchases of Moultrie products from Sam Smith between April 17th and July 19, 1917, and that the next purchase thereafter was September 13, 1917; that these weekly purchases ranged from about $13.00 per week to $57.00 per week; that during the month of May he estimated that two-thirds of his purchases were from the Moultrie Packing Company; that he also made purchases during that period from Summerlind & Co., Smith, Richardson & Conroy, Kingan & Co., and the Cudahy Packing Co.; that his purchases of fresh pork products from Moultrie ran heavier during the winter months than during the summer months, and after September 13, 1917 he
906 purchased local fresh pork from Farris & Co. and from Armour & Co., that the local product has always been cheaper than the western product; that Swift & Co.'s salesman during 1916-17 solicited his business.

That he bought fresh Georgia pork or soft and oily pork before the Moultrie Packing Company started selling in this market; that he bought it then from Ferris & Company, Smith, Richardson & Comroy and Summerlin & Company; those firms handled the southern pork. That while he was buying the Georgia pork from the Moultrie Packing Company he also bought Western pork cuts. That he did not buy any more products from the Moultrie Packing Company after September 13, 1917 because he heard that they were out of existence or had no representative in Jacksonville.

Cross-Examination.

That his practice was to call up the various dealers, get the best prices, and then buy; that he ran a small market on the outskirts of town, about one and a half miles from the center of the city;

Q. What kind of trade do you cater to in your market?

A. Practically the colored trade.

Q. That is in the colored section of the City?

A. Right on the line between colored and white section.

Q. How many of your customers are colored people?

A. I have got quite a few.

Q. And the colored trade is not so fastidious about the meat they eat as some of the other people?

A. Yes—they are pretty fastidious—have to carry good meats to sell them.

907 Q. Don't you have to be considerate about the price?

A. They want it as cheap as they can get it—like everybody else.

Q. Now—you also run a general store?

A. Yes, sir.

Q. Is that just simply groceries, or is it drygoods, too?

A. I have got a few drygoods too,—you might call it drygoods,—hosiery, overalls, collars, undershirts, a few drygoods.

That he bought nothing from the Moultrie Packing Company except fresh meats, such things as pigs, fresh sausage, liver, tongues, hearts, hazletts; that he thought he did not buy any beef at all from the Moultrie Packing Company.

That there are a number of concerns here in town that sell meat—a great many more than he has purchased from—but that he did not know how many.

That Summerlin & Company, Ferris & Company and the Jacksonville Cattle Company are local slaughterers.

That he has bought dressed pigs from the farmers who slaughtered and brought them into Jacksonville to sell to the dealers; that that practice has continued for a great many years.

Redirect Examination.

Q. I notice that counsel for respondent asked you what quality of products you sold to the trade—will you state what quality of products you bought from Moultrie Packing Company?

A. Superior to anything you could get in Duval County—anything you have got in Duval County.

908 Q. By that you mean any other local pork?

A. Yes, I consider it so.

Q. How did it compare with the Western product?

A. Why,—I would rather have it in my business.

Q. How did the trade like it?

A. I think they liked it better—under the circumstances, I think they liked it better.

Recross Examination by Mr. Horton.

Q. When you purchased pork from the farmers, where would that appear upon your books?

A. That would usually go in the Sundry Purchases.

Q. And there are on these pages from 2, to 48, a number of accounts which are Sundry Purchase Accounts?

That he did not buy from Swift & Company; that he thought Swift & Company's salesmen had solicited his trade for the years 1916 and 1917.

909 It is stipulated by and between the parties hereto that if William J. Abernathy were called as a witness and sworn, he would testify that from September 30, 1915 to the end of February 1916, he was employed by Jeffries Market, and was in charge of the books of account, and that the ledger account between Jeffries Market and Moultrie Packing Company, under his supervision and control and the debit entries in the ledger, Commission's Exhibit No. 116-a, beginning October 9, 1915, and ending February 28, 1916, are in his handwriting and are correct entries, and that the ledger account between Moultrie Packing Company and Jeffries Market, received in evidence as Commission's Exhibits respectively, 116-a and 116, are true and correct accounts as kept by him.

---

910 T. J. VINZANT called as a witness for the Commission at Jacksonville, Fla., on March 23, 1921, after having been first duly sworn testified in substance as follows: (Pages 1626-1652)

That he has been engaged in the retail grocery and meat business in Jacksonville, Fla., for a number of years and was engaged in that business in 1916-17. He identified a check

marked: "Commission's Exhibit A 24" for identification as a check drawn by himself to the Moultrie Packing Company June 5, 1917, to cover an invoice of meat products purchased from Moultrie Packing Company during the previous week; that this was the last payment he had made to the Moultrie Packing Company for meat products; that he had made search for invoices of the Moultrie Packing Company and he could not find any later than the month of June, 1917, which he identified and which were offered in evidence and marked: "Commission's Exhibit 143-144-145" respectively. He also purchased and identified two invoices from Swift & Co. dated October 4, October 5, covering purchases of products from the Moultrie plant of Swift & Co. and so marked on the invoices, which were identified and offered as "Commission's Exhibit 146-147," that the witness' best recollection was that the products represented on these invoices were fresh pork products.

911 T. J. VINZANT:

Cross-Examination.

That in 1917 he was paying a higher price every month; that the market must have been advancing; that dealers other than Swift & Company advanced their prices also; that he also bought from the farmers who sold whole hogs; that he supposed he bought in the years 1916 and 1917 as he buys from the farmers every year; that he supposed he bought from Armour & Company, Swift & Company, Kingan & Company and all of them, also from Wilson & Company and Morris & Company; that these firms were engaged in business here in Jacksonville in 1917 and before and since that time.

912 OTIS T. WEEKS called as a witness, being first duly sworn, testified as follows:

Direct Examination by Mr. Taylor.

Q. What is your name?
A. Otis T. Weeks.
Q. Do you reside in Jacksonville, Florida?
A. Yes, sir.

Q. Are you engaged in the retain meat busines??
A. Retail grocery and meat business.
Q. You are a member of the firm of Cook & Weeks.
A. Yes, sir.
Q. How long has the firm of Cook & Weeks been doing business in the City of Jacksonville?
A. A little over four years,—since 1916,—August, I believe it was,—four or five years ago.
Q. Have you anything here which you can consult to refresh your recollection of the date?
A. The date when I started?
Q. Yes, as to the date when you commenced to do business in Jacksonville,—the firm of Cook & Weeks?
913 A. Yes sir, I have. (Witness consults book.) August, 1916.
Q. That is, you mean, the firm of Cook & Weeks was formed to deal in retail groceries and meats?
A. Yes, sir. I was just the market man.
Q. What do you mean by that?
A. Just the meat business. Nothing but meats.
Q. And how long did you continue to deal in meats alone?
A Until July 1912.
Q. And prior to August, 1916 had there been a business to which Cook & Weeks succeeded?
A. Why there was—Ballou & Weeks.
Q. The firm of Ballou & Weeks? They were doing business, the same kind of business, retail meat business?
A. Yes, sir.
Q. And you entered into the firm August, 1916?
A. About August, 1916.
Q. And did Mr. Cook remain?
A. Yes, sir.
Q. Now, since you have been connected with this business has the firm bought meat products from the Moultrie Packing Company?
914 A. Yes, I bought from them.
Q. What did you buy from Moultrie Packing Company?
A Well, I bought fresh and smoked meats, was about all I have bought.
Q. What kind of meat?
A. Pork loins, pork shoulders, smoked hams.
Q. Any fresh hams?
A. Yes, sir, fresh hams.

Q. Smoked shoulders?
A. I think I bought a few from them, I would not be sure about that.
Q. Bacon?
A. Bacon—no smoked bacon—not that I know of.
Q. How long did your firm continue to buy from Moultrie Packing Company?
A. Well, about two years, as well as I can judge.
Q. Down to what dates?
A. Down to what dates?
Q. Yes?
A. I have forgot that.
Q. Do you wish to consult some date to refresh your memory?
915 A. September, 1917.
Q. What date in September?
A. September 14, 1917.
Q. Do you make this statement after examining some account to refresh your recollection?
A. Yes, sir.
Q. Now during this time, from August 16 to September 14, 1917 did the salesmen of Swift & Company call upon your firm from time to time to sell you goods?
A. Yes, sir.
Q. And what sort of goods did they call upon you to sell?
A. Well, a general line.
Q. That included pork, did it?
A I guess it did,—always had pork.
Q. Both fresh and smoked?
A. Yes, sir.
Q. All cuts,—all kinds?
A. We don't handle all cuts, but they had all kinds.
Q. Did you buy any beef from the Moultrie Packing Company?
A. I don't know—I have bought a little,—I don't know
916 when that was, I was not very successful in getting it from them—I stopped buying.
Q. Can you tell why you stopped buying from Moultrie Packing Company in September 1917?
A. Well, the salesman quit calling upon me.
Q. Who was the salesman?
A. Sam Smith.
Q. Do you know why he quit calling upon you?
A. No, sir.

Q. Have you ever bought any Moultrie Packing Company goods since you stopped buying from Moultrie Packing Company?

A. I might have bought some of the goods, not knowing it.

Q. Have you made search to discover the invoices for the Moultrie Packing Company for goods bought by you from them?

A. Well,—I didn't myself,—but them Mrs. Cook has. I was getting the stuff out for her, there was some in a box,—I know some of our bills were destroyed; if you want me to look again I will look.

Q. And you found some in this box?

A. Yes, sir.

Q. Did you find any anywhere else?

A. No, sir.

Q. Do you know any other place to look for them?

917 A. No, sir.

Q. You did not find any anywhere else aside from what you discovered in this box?

A. No sir.

Q. Did you look anywhere else?

A. No sir.

Q. Did you find all of the bills?

A. That was all we could find,—that aint all of them but it is all we could find.

Q. Well, Mr. Weeks, what are those papers which I show you?

A. Bills from Moultrie Packing Company.

Q. Bills of Moultrie Packing Company to Cook & Weeks?

A. Yes, sir.

Q. For goods bought by Cook & Weeks of Moultrie Packing Company?

A. Yes, sir.

Q. The goods were bought at the time the invoices of bills were dated?

A. Yes, sir.

Q. The goods were of the character described in the

918 bills, were they?

A. Yes, sir.

Q. And you now have in your hand bill dated "1/3/17" have you?

A. Yes, sir.

Q. Now, there are a number of these bills of the same

general character running through the year 1917 down to last one, dated—what?

A. "7/3/17".

Q. And there are thirty-four of these bills in all, is that correct?

A. There are thirty-four.

Q. Now did these bills represent goods purchased at the times of the dates of the respective bills by Cook & Weeks from the Moultrie Packing Company?

A. Yes, sir.

Mr. Taylor: I offer them all in evidence. There are thirty-four of them.

Mr. Horton: Mr. Examiner we object to the introduction in evidence of these bills on the ground that they are not competent nor material to the issues, nor are they properly
919 identified.

The Examiner: The objection will be noted.

Mr. Taylor: I ask that they be marked, and admitted in evidence.

The Examiner: The invoices will be received in evidence and marked Commision's Exhibits, respectively Nos. 149 to 182, inclusive.

It Is Agreed between counsel for the respective parties hereto that Photostat copies of the said Exhibits Nos. 149 to 182, inclusive, may be made and substituted for the originals and the originals withdrawn and returned to the witness, Weeks.

Q. Now then, Mr. Weeks, I believe you said that you bought other goods from Moultrie Packing Company than these represented by these invoices just received in evidence?

A. Yes, we bought more than that.

Q. All of the goods shown in that invoice were bought by your firm from Moultrie Packing Company and received by your firm from the Moultrie Packing Company on the dates shown on the respective invoices?

A. Yes, sir.

920 Q. And settled for on the basis of prices there shown?

A. Yes, sir?

Q. Are you buying from the Moultrie Packing Company at this time?

A. No, sir.

Q. How long since you have bought the products of the Moultrie Packing Company from any source whatever?

A. Well, this is the last bill I have got.
Q. You mean the one of September 14, 1917?
A. Yes sir. I would not swear that is the last one, but I think it is.
Q. And that one you bought from Sam Smith, Broker, did you not?
A. Yes, sir, I guess I did. Well, I tell you, his wife sold goods, I lots of times bought from her.
Q. Well you were buying from him when you were buying from his wife—it just went through his wife?
A. Well, I don't know.
Q. It was for the benefit of his account?
A. Oh, yes.
Q. These invonces all show you bought from Smith, do they not?
A. Yes, sir.
921 Q. They were his sales?
A. Yes, sir.
Q. Why didn't you keep on buying from Smith?
A. Well, he just quit coming around and I just didn't buy. We have got lots of brokers. The ones that come around got the orders. The last time he was there he was a little too high and I didn't buy anything.
Q. That was some time after this purchase of September, 1917?
A. Yes, sir.
Q. Does your firm keep books, Mr. Weeks?
A. Well, yes.
Q. Who keeps them?
A. Mrs. Cook.
Q. And that is Mrs. Cook who is here present, now?
A. Yes, sir.

Cross-Examination by Mr. Horton.

Q. Do you know whether or not Mr. Sam Smith was in the City of Jacksonville between the first of August and the 6th of September, 1917?
A. I don't know sir.
922 Q. He has testified in this case, and he has testified that he was out of the City at that time? He did not call upon you during those dates, did he?
A. I could not tell you, it is too long ago for me.

Q. Now did you ever try to buy Moultrie pork from Swift & Company?

A. No. I might have handled stuff from them but I never tried to buy any Moultrie stuff from them that I remember of.

Q. You never asked for Moultrie pork?

A. No, sir.

Q. Did you know you could get Moultrie pork here if you wanted it?

A. Yes, I heard you could, and I might have handled it,—I didn't pay no attention to it.

Q. Did the salesmen offer it to you?

A. Well, I don't remember that. That is a long time ago—too long for me to remember about it.

Q. Does he call upon you now?

A. Yes, sir,—not the same man.

Q. Yes, but some Swift Salesman?

A. Yes, sir.

923 Q. Does he offer you Moultrie pork?

A. I don't do much buying on the meat side, now.

Q. Do you know whether or not there was an advancing market in the summer and fall of 1917?

Mr. Taylor: That is objected to, Mr. Examiner.

The Examiner: The objection will be noted.

A. I say I don't know. The market changed too fast for me—I don't remember, that is too much for me to remember.

Q. Was there a rapidly changing market in the fall of 1917?

A. How is that?

Q. I say do you mean by your answer that there was a rapidly changing market in the fall of 1917?

A. No, sir, I don't mean that,—I don't remember whether it was or not.

Q. You don't remember whether it went up or went down?

A. No, I don't remember whether it went up or went down.

Mr. Taylor: Or whether it stood still?

A. (No answer.)

Q. Do you remember how it went from January to July, 1917?

A. What?

924 Q. Do you remember the trend of the market from January to July, 1917?

A. No, sir.

Q. Will you please examine these bills you have introduced here and see if that refreshes your memory?

A. No,—I know I could not answer that question, four or five years ago,—I would not try to answer it unless you give me a little time to go back over the record—that is too deep for me.

Q. I notice on the invoice dated January 3, 1917, which is Commission's Exhibit No. 149, the price of sixty pounds of pork loins is 15½c; and I notice on the invoice of June 19, 1917, Commission's Exhibit No. 181, that it is 23½c for the same size loin. Does that indicate to your mind whether the price went up or down?

A. The market—I can't judge,—I would not attempt to make a statement on the market at that time; you have got your bills there, just as good evidence as I can give you.

Q. If the bills show higher prices for pork loins in June and July than they did in January, would you say that the market price went up?

A. Yes, sir.

Mr. Taylor: That is all very objectionable, Mr. Examiner.

925 The Witness: Have I got to answer all those questions?

Q. Don't you want to answer these questions?

A. Ain't no use for me to answer those questions—I ain't going to make a price, so long ago as that.

Q. Don't you want to answer the question?

A. No, I don't want to answer that question; it ain't no good. I don't want to answer anything—go way back yonder five years ago and up to the present date—I would not attempt it unless you would give me some records to go by.

Q. Mr. Weeks, please let me ask you if the price of pork loins advanced, 15½c in January to 23½c in June, does not that indicate that there was a rise in the market?

Mr. Taylor: That is objected to, that is not proper cross examination. The bills show on the face of them what they are.

The Examiner: The objection will be noted.

A. You have got them right there in front of you—what is the use of me telling you. Swift & Company has got them in that little book back there for the last twenty years.

Q. Yes, I know Swift & Company have the prices, but Mr. Taylor will object if I try to put those books in evidence?

A. Here are these bills, why ain't they as good to you
926 as for me to tell you? I had to produce them—it is up to them to use them.

Mr. Horton: No further cross examination.

And thereupon the witness was excused.

---

927 IDA A. COOKE called as a witness for the Commission at Jacksonville, Fla., on March 23, 1921, after having been first duly sworn testified in substance as follows (Pages 1668-1700):

That she has been a bookkeeper for the firm of Cooke & Weeks since August 1, 1916, which books she produced in the form of a journal, and which contained the records of the business of the firm of Cooke & Weeks, beginning in May 1916, and running to the end of the year 1918; that this book contained entries showing amount of purchases made by Cooke & Weeks from the Moultrie Packing Company, but not the character of the goods nor the prices; that she had and could identify "Commission's Exhibit 149-162" inclusive, as being invoices from the Moultrie Packing Company covering meat bought by Cooke & Weeks, and consulting her record, witness stated that the aggregate amount of purchases from the Moultrie Packing Company from January 3, 1917 to July 3, 1917 was $529.26.

IDA A. COOKE:

928 *Cross-Examination.*

Mrs. Cook then read from the same book, a skeleton of the purchases made from other packers. The month beginning January 3, 1917 is as follows:

Jan. 3: Kingan, Swift & Co.
Jan. 5: Morris & Company
Jan. 5: Cudahy & Company.
Jan. 6: Morris & Company
Jan. 6: Cudahy & Company
Jan. 6: Kingan & Company
Jan. 8: Meat, Summerlin & Company.
Jan. 8: Jacksonville Cattle Company

Jan. 8: Swift & Company.
Jan. 8: Cudahy & Company
Jan. 9: Cudahy & Company
Jan. 9: Kingan & Company
Jan. 9: Morris & Company.
Jan. 10: Swift & Company
Jan. 10; meat, Cudahy & Company
Jan. 11: meat, Cudahy
Jan. 11: Swift & Company
Jan. 12: Swift & Company
Jan. 12: Kingan & Company
Jan. 13: Morris & Company
Jan. 13: Kingan & Company
929 Jan. 15: meat, Summerlin & Company,
Jan. 15: Jacksonville Cattle Company
Jan. 15: Kingan & Company
Jan. 15: Morris & Company
Jan. 16: Kingan & Company
Jan. 16: Cudahy & Company
Jan. 16: Swift & Company
Jan. 16: Swift & Company, again
Jan. 17: Morris & Company—breakfast bacon
Jan. 17: Morris & Company
Jan. 17: Kingan & Company
Jan. 17: Swift & Company
Jan. 18: Kingan & Company
Jan. 18: Morris & Company
Jan. 18: Kingan & Company, again.
Jan. 18: Swift & Company
Jan. 19: Swift & Company
Jan. 19: Cudahy & Company
Jan. 19: Moultrie Packing Company
Jan. 20: Morris & Company
Jan. 20: Cudahy & Company
Jan. 20: Kingan & Company
Jan. 22: Jacksonville Cattle Company
Jan. 22: Summerlin Company
Jan. 22: Kingan & Company
Jan. 22: Cudahy & Company
930 Jan. 23: Kingan & Company, three invoices same day.
Jan. 23: Swift & Company
Jan. 23: Cudahy & Company
Jan. 24: Kingan & Company

Jan. 25: Cudahy & Company
Jan. 25: Swift & Company
Jan. 25: Kingan & Company
Jan. 26: Cudahy & Company
Jan. 26: Kingan & Company
Jan. 27: Swift & Company
Jan. 27: Kingan & Company
Jan. 29: Cudahy & Company
Jan. 29: Morris & Company
Jan. 29: Jacksonville Cattle Company
Jan. 29: Swift & Company
Jan. 30: Swift & Company
Jan. 30: Morris & Company
Jan. 31: Summerlin & Company
Jan. 31: Morris & Company
Jan. 31: Kingan & Company
Jan. 31: Swift & Company.

That the months of February, March, April, May and June are practicallly the same as the month of January above quoted; that the firm still bought from the concerns above mentioned and continues up to the present time (March 1921)

931 Further testified that she did not know what kind of meats were handled by the firms named and does not recollect whether any of the invoices covered pork products from those firms but she supposed they handled pork.

935 BEFORE THE FEDERAL TRADE COMMISSION

Federal Trade Commission,
Petitioner,
vs.
Swift & Company,
Defendant.
} Docket No. 453.

Chicago, Ill., June 3, 1921,
Ten o'clock A. M.

Before:
C. T. Sadler, Esq., Examiner.

Met pursuant to notice.

Appearances:

Messrs. A. N. Taylor and D. F. Haycraft, c/o Federal Trade Commission, Washington, D. C., appearing for the Federal Trade Commission.

A. H. & Henry Veeder, James M. Sheean and Frank L. Horton, Chicago, Ill., appearing for Swift & Company.

938 PROCEEDINGS.

Examiner Sadler: The hearing will come to order.

CHAN B. COLT, called as a witness, having been first duly sworn, testified as follows:

Direct Examination by Mr. Taylor.

Q. What is your full name, Mr. Colt?
A. Chan B. Colt.
Q. Where do you live?
A. Chicago.
Q. What is your business at the present time?
A. I am in the Beef Department of Swift & Company.
Q. Employed by Swift & Company?
A. Yes, sir.
Q. How long have you been in the employ of Swift & Company?

A. Sixteen years.

Q. When you first entered the employ of Swift & Company, in what capacity were you employed?

A. At the mailing department, that is, at St. Joseph, Missouri.

939 Q. How long were you employed at St. Joseph, Missouri, in the mailing department?

A. Only a few months.

Q. What happened then?

A. I was transferred to the Banking Department.

Q. Still at St. Joseph, Missouri?

A. Yes, at St. Joseph.

Q. Do you recall about the date when this transfer took place?

A. I would say about 1905.

Q. Do you recall about the time of the year?

A. No, I do not.

Q. How long were you engaged in that capacity?

A. Approximately eight or nine years.

Q. And what happened then?

A. I was transferred to the departmental desk—the departmental department at St. Joe.

Q. At St. Joseph, Missouri?

A. Yes, sir.

Q. Can you give the date when this transfer took place, that is, about?

A. Well, you mean the year?

940 Q. Yes, the year, and as near as you can recall the time of the year?

A. I would say January, 1915, as near as I can remember.

Q. About that time anyway?

A. Yes, sir.

Q. How long were you kept at the Departmental Desk?

A. About a year?

Q. And what happened then?

A. I was transferred to chief clerk at St. Joe.

Q. How long did you remain there as chief clerk?

A. About a year.

Q. And then what happened?

A. And then I went on the road as auditor.

Q. What date would that be, as near as you can recall, that you went on the road as auditor?

A. That would be the first of 1916, I would say about in—1916, some time.

Q. In your occupation as auditor on the road, what did you do in a general way? I do not want to go into details at all?

A. I made a report of our plants in different parts of the country.

Q. Did you cover the whole United States in your traveling?

941 A. Yes, sir; I was as far west as California and as far east as Boston and New York.

Q. Do you know whether you called at all of the plants of Swift & Company?

A. Oh, no, not all; only a small percentage.

Q. Just called at certain plants that you were instructed to call at?

A. Yes, sir.

Q. From whom did you receive your instructions at that time, Mr. Colt?

A. Mr. J. M. Chaplin.

Q. And where is Mr. Chaplin located?

A. Chicago, Swift & Company.

Q. Do you know what his connection with Swift & Company was at that time?

A. The same as now. He is head of the Plant Accounting Department.

Q. Now, how long did you continue as traveling auditor?

A. Until I went to Andalusia in August, 1917.

Q. You mean Andalusia, Alabama?

A. Yes, sir.

Q. From whom did you receive instructions to go to

942 Andalusia?

A. From Mr. Chaplin.

Q. In what form were those instructions, oral or written?

A. Oral.

Q. And you received them here in Chicago, did you?

A. Here in Chicago, yes, sir.

Q. Where were the instructions given you, at the office of Mr. Chaplin in Swift & Company's office in Chicago?

A. Yes, sir.

Q. What did he instruct you to do?

A. Instructed me to go to Andalusia as auditor of the plant.

Q. As auditor of what plant?
A. Of the Andalusia Packing Company.
Q. Just when was this, as nearly as you can recall?
A. I would say this was August, 1917.
Q. Mr. Colt, can you recall now whether or not the stock of the Andalusia Packing Company had been purchased by Swift & Company before you went down there, or whether it took place after?

Mr. Horton: I object to that question, inasmuch as it assumes that the stock was purchased by Swift & Company. That fact is not in evidence in this case as yet.

943 Mr. Taylor: It is not only in evidence, but it is admitted in the answer. However, I will say, purchased for the benefit of Swift & Company, if the sensibilities of counsel are injured by the form of my former question.

Examiner Sadler: The objection will be noted.

(Question read by the reporter as amended.)

Mr. Taylor: Do you want your objection to be made just the same to the question as changed?

Mr. Horton: I do.

Q. Do you recall, Mr. Colt?
A. Yes,—I am pretty sure it was after, not at the time.

By Mr. Horton: Q. Mr. Colt, have you any knowledge as to when that stock was purchased, if it was purchased?
A. I cannot recall.

By Mr. Taylor: Q. Do you mean by that you cannot recall the exact date?
A. Not the exact date, no, sir.
Q. If I were to tell you that it took place on the 14th day of July, 1917, would you change your answer with regard to the date when you went to Andalusia?
A. No, sir.

Q. Have you any memoranda or letters or anything
944 by which you can determine the exact date when you went to Andalusia?
A. No, sir; not with me.
Q. But it is your recollection you went to Andalusia before the purchase of the stock for the benefit of Swift & Company?
A. That is my recollection.
Q. Now, about how long would you say it was before the purchase of the stock that you went to Andalusia?
A. I cannot say.
Q. Do you know Mr. J. D. Rogers?

A. Yes.
Q. Who is Mr. Rogers?
A. Do you mean at that time?
Q. Yes?
A. He was the manager of the Andalusia Packing Company.
Q. Was he also employed by Swift & Company?
A. Yes, sir.
Q. And was sent by Swift & Company to Andalusia as the Manager of the Andalusia Packing Company?
A. As far as I know, yes.
Q. Was Mr. Rogers at Andalusia when you went there, or did you precede him there?
A. Mr. Rogers came there—Mr. Rogers was there
945 about a month previous to my arriving, and came there permanently about a month after I had gotten there, as I remember it.
Q. Will you state more fully just what you mean by saying that he came there a month previously to your going there and came permanently a month after?
A. Mr. Rogers went to Andalusia I would say in the summer of 1917, and he came back to Chicago on account of sickness, and then went back to Andalusia I would say the latter part of August or last of September, 1917.
Q. By what do you fix this date?
A. Just by memory.
Q. Have you any point at the present time by which you fix it at all definitely?
A. No, sir.
Q. It is your recollection that Mr. Rogers also went to Andalusia first before the purchase of the stock of the Andalusia Packing Company for the benefit of Swift & Company, is it not?
A. Yes, sir.
Q. Do you know Walter A. Davis?
A. No, sir.
Q. Did you ever know such a man?
A. I do not recall the name at present.
946 Q. Was there a bookkeeper employed at Andalusia when you went there?
A. Yes, sir.
Q. What was his name?
A. Thinking the matter over, it was Walter A. Davis.

Q. Did Mr. Davis continue there as bookkeeper during all the time you were at Andalusia?

A. No, sir.

Q. How long a time did he continue?

A. I would say for around six or eight months.

Q. Mr. Davis was there when you went there, is that correct?

A. Yes, sir.

Q. And you think he remained six or eight months?

A. Yes, sir.

Q. During the first portion of the period that you were there?

A. Yes, sir.

Q. What did you do when you went down there, what were your duties in connection with that concern?

A. My duties were to organize the office and to put in Swift & Company's system of accounting.

947 Q. Were there any further duties that you had to perform?

A. No, sir.

Q. How long did you remain there?

A. A little over two years.

Q. And during all that time by whom were you paid, from whom did you receive your salary?

A. I was paid on the regular office pay-roll of the Andalusia Packing Company. Did you say all the time?

Q. Yes?

A. Please repeat that question.

(Question read as above recorded.)

A. From Swift & Company.

Q. That is you mean to say that your salary during the entire period that you were at Andalusia was paid by Swift & Company, is that the way you wish your answer to stand?

A. It was not incorporated under the name of Swift & Company until later on, and I do not know just how to answer that question.

Q. How did you get your pay before you went to Andalusia?

A. From Swift & Company.

Q. In what form and in what way, by check or cash?

A. By check when I was auditing on the road, and by 948 cash before.

Q. How did you get your money while you were at St. Joe, Missouri?

A. By cash.
Q. From whom?
A. From Swift & Company.
Q. Where?
A. At St. Joseph, Missouri.
Q. Cash was handed you in the St. Joseph office?
A. Yes, sir.
Q. When you went on down to Andalusia, how did you get your salary? I refer to when you first went down there, take the first week that you arrived?
A. The first week that I was there I was put on the pay-roll of the Andalusia Packing Company.
Q. How did you receive your money?
A. Received my salary in cash.
Q. From whom?
A. From the Andalusia Packing Company.
Q. Did you receive a check from Swift & Company for any part of your salary?
A. No, sir.
949 Q. Or all of your salary?
A. No, sir.
Q. How long a time did you continue to receive cash from the Andalusia Packing Company in payment of your salary?
A. Until it was incorporated under the name of Swift & Company.
Q. By saying until it was incorporated under the name of Swift & Company, do you mean until the property of the Andalusia Packing Company was assigned and conveyed to Swift & Company?
A. Yes.
Q. Do you recall when that happened?
A. My recollection is it occurred in March, 1918.
Q. And how did you get your pay after that?
A. From Swift & Company.
Q. Swift & Company from Chicago?
A. No, sir, Andalusia.
Q. In what form, check or cash?
A. Cash.
Q. Just as you had received it previously?
A. Certainly.
Q. Mr. Colt, I hand you a paper marked schedule A,
950 bearing date September 20, 1917. I will ask you to look that paper over and tell me whether you recognize it as

a paper that was prepared by yourself at the time you were at Andalusia?

A. Yes, it is the same paper, I recognize my handwriting.

Q. That paper was prepared by you?

A. Yes, sir.

Q. And states the facts to the best of your knowledge?

A. Yes, sir.

Q. The paper is marked A-22 for identification. I will ask you again to turn over all the pages of this paper and state whether you recognize them all?

A. Yes, I recognize the whole file.

Q. Page 24 of this schedule represents a carbon copy of a letter dated September 24, 1917, addressed to the Andalusia Packing Company, Andalusia, Alabama,—and signed Federal Trade Commission, by Blank, Secretary. Do you recognize that as a carbon copy of an original letter which you received about that time?

A. Let me read the letter.

(Witness reads the letter.)

A. Yes, I remember the letter.

Q. And page 26 is your reply to the same, is it not?

951 A. Yes, sir.

Q. And this letter of yours appearing at page 26 states the facts to the best of your knowledge at that time?

A. Yes, sir.

Q. Do you recognize the signature on the letter appearing at page 25?

A. Yes, sir.

Q. Whose signature is that?

A. T. E. Henderson's.

Q. Who is T. E. Henderson?

A. He is President of the First National Bank of Andalusia.

Q. And was formerly president of the Andalusia Packing Company?

A. That is my recollection.

Q. Pages 27 and 28 are duplicate copies of carbon letter, dated December 24, 1917, addressed to the Andalusia Packing Company, signed by the Federal Trade Commission by blank, Secretary. Do you recall receiving that letter, or seeing the original of that letter?

A. I don't recall that letter offhand, no.

Q. Now, I call your attention to page 29, which purports to be a reply to that letter. Do you recognize the signature?

952 A. Yes, sir.

Q. Whose signature is it?

A. Mr. Peacock's.

Q. Who was Mr. Peacock? at that time?

A. He was Secretary of Swift & Company, or the Andalusia Packing Company at that time.

Q. Was he in the employ of Swift & Company, or an officer of Swift & Company at that time, do you know?

A. I could not say for sure.

Q. What is your best knowledge on the subject?

A. My best knowledge is that he was employed by Swift & Company at that time.

Q. He is employed by Swift & Company now?

A. He was at that time.

Q. He is now, is he not?

A. I could not say.

Q. Now, I will ask you to again read this carbon copy on pages 27 and 28, and the letter on page 29, and state whether or not it is your recollection that the original letter from the Federal Trade Commission, dated December 24th was received by you at Andalusia and forwarded to Swift & Company in Chicago for their answer?

953 A. It seems after re-reading that I have a faint recollection of receiving the letter dated December 24, 1917, and forwarded it to Chicago for acknowledgment.

Mr. Taylor: Mr. Examiner, I now offer in evidence the document market schedule A, also marked A-22 for identification, regarding which the witness has just testified.

Mr. Horton: I object to the schedule marked A-22 for identification, for the reason that it is not properly identified. For the further reason that there is combined together a report called the slaughtering and meat packing special report, together with certain other correspondence, and the entire file is offered as one exhibit. The slaughtering and meat-packing report is a special report made by the packing company to the Federal Trade Commission under war time conditions, and was for the purpose and the sole purpose of enabling the Federal Trade Commission to make a so-called survey of the meat packing industry, and the matters and things stated in there are confidential, and were limited to that purpose only. Also because the exhibit as of-

fered contains letters from parties other than those connected with the respondents, and declarations of third parties cannot be used to bind the respondent in this case. For
954 the further reason that the matters and things contained therein are immaterial and irrelevant to the issues in this case.

Mr. Taylor: Mr. Examiner, with regard to the circumstances under which this report was made, I desire to say that it was not made under the war-time power conferred upon the Federal Trade Commission, but was called for by the Commission pursuant to the letter of the President, requesting the Commission, or directing the Commission to investigate the meat conditions. This letter from the President to the Chairman of the Federal Trade Commission, which bore date February 7, 1917, among other things stated:

"Pursuant to the authority conferred upon me by the Act creating the Federal Trade Commission, therefore I direct the Commission within the scope of its powers to investigate and report the facts relating to the production, ownership, manufacture, storage and distribution of food-stuffs and the products or by-products arising from or in connection with their preparation and manufacture; to ascertain facts bearing on alleged violations of the anti-trust acts, particularly upon the question whether there are manipulations, controls, trusts, combinations, conspiracies, or restraints of trade out of harmony with the law for the public interest.
955 "I am aware that the Commission has additional authority in this field through the power conferred upon it to prevent certain perons, partnerships or corporations from using unfair methods of competition in commerce. I presume that you may see fit to exercise that authority upon your own initiative without direction from me."

Mr. Horton: I wish to offer a further objection, to-wit, that the report contains initials, check-marks, writings and other hieroglyphics which have been apparently put upon the said report after its receipt by the Federal Trade Commission.

Mr. Taylor: As to that, Mr. Examiner, I will expressly eliminate from the offer any of the initials and hieroglyphics referred to by counsel for Respondent.

Mr. Horton: Further, that the Andalusia Packing Company was not engaged in commerce within the meaning of that word in the Federal Trade Commission Act and the Clayton Act, and the Commission is without power or au-

thority to require the filing or production of such a document.

Examiner Sadler: The objections will be noted, and the document marked A-22 for identification, will be admitted in evidence and marked Commission's Exhibit Number 183.

956 (The document was received in evidence and marked Commission's Exhibit Number 183.)

Mr. Taylor: So that there may be no mistake as to the initials and hiergolyphics which are not included in this offer, I will state that on page one appear the following initials not offered: On the top of the page the initials "E. F. H.", and the figures "2 to 10 inclusive." On the left hand margin, about half way down the page in black ink, in a black ink circle the word "card", under which appear the initials "R. A. D." In red ink immediately below the circle, the red ink initials "H. M. B." On the bottom of the page in red ink, encircled "ver", followed by the initials "R. H. O."

On page 2—and by the paging I refer to the numbers appearing on the lower right-hand corner of each page—the right-hand margin of the page, about midway between the top and the bottom in black ink, encircled in black ink, are the initials "R. M. T." Immediately below the black ink circle appear in red ink the initials "T. J. H."

On page 3 near the lower right-hand corner appears the word "card" in pencil, immediately beneath which, in a black ink circle are the initials "E. B. O." Immediately

957 below that in red ink are the initials "T. J. H." followed by the letters "ver" "stockholdings" followed by a small —c—, these last initials and words enclosed in red ink circles. At the bottom near the right-hand edge of the page are the figures in red ink "$133,250", which are also not included in the offer.

Page 4 near the right-hand margin appear the initials in black ink, "E. G. O.", immediately under which is the word "card". Immediately beneath appears in red ink the word "cards" "ver", under which still in red ink are the initials "R. M. T."

Immediately beneath this appears in black ink circle the initials in black ink "R. M. T." and immediately below appear in red ink encircled, the initials in red ink, "T. J. H."

On page 8, near the right-hand margin, midway between the top and bottom, appear in black ink, enclosed by a black ink circle, the initials "E. A. F." Immediately beneath that,

enclosed in red ink the letters "ver", followed by the figures "10/24/17", and the initials "R. M. T."

On page 9 the figure 3 is encircled in the upper right hand corner.

On page 11, on the upper right-hand corner, the figure
958 3 in a black ink circle, near that the figure "17-b" also not included.

On page 17, at the upper right-hand corner, is the figure 3 in a black ink circle and the figure "17-A" in pencil.

On page 15, the upper right-hand corner, the figure "7-b" in pencil, immediately beneath which are the word and initials in red ink "cards ver. R. M. T."; also red check-marks appearing after the figures under the column entitled "amount".

On page 16, the upper right-hand corner, the figure 3 in black ink, and in a black ink circle the pencil figures: "8-b."

Page 17, the same marks on the upper right hand corner.

Page 18. the upper right hand corner the figure 3 encircled in black ink. In pencil the word "cards" beneath which are the initials "E. B. O." Also above the columns entitled "Number of shares" appear in red pencil marks the figures "25 or more" which are not included in the offer, with certain pencil marks after the number of shares appearing in the column.

959 On page 19 the figure 3 in black ink, enclosed in a circle appears at the right-hand corner, and certain check-marks after numbers of shares.

Page 20, upper right-hand corner, the figure 3 in black ink, enclosed in a black ink circle with certain checks after number of shares.

Page 21, the figure 3 in black ink, enclosed in a black ink circle at the right hand upper corner; also certain check-marks after certain numbers of shares; also check marks after the name "T. E. Henderson."

Page 2, the figure 3 encircled at the upper right hand corner, and check-marks after certain numbers of shares.

Page 23, figure 3 encircled in the upper right-hand corner.

Page 24, upper right-hand corner the initials "G. A. S.", immediately beneath which is the figure 3 in a black ink circle, and after that the initials "M. A."

Page 25, the upper right-hand corner, the figure 3 encircled, beneath which is "M. A." In the upper right-hand corner in pencil the word "Stephens"; also in red ink stamp, about the middle of the page "A-50927".

Page 26, upper right-hand corner, figure 3 encircled, 960 and in the left hand margin red pencil mark.

Page 27, upper right-hand corner, the figure 3 encircled, beneath which is the word "registered".

Page 28, the figure 3 encircled, beneath which is the word "registered". Lower left-hand corner "registered mail, C. G."

Page 29, upper right-hand corner, figure 3 encircled in black ink, beneath which are the initials in black ink "M. A.", between which written in pencil is the word "Robertson". Just to the left appears in pencil the initials "M. A.", immediately beneath which the figure 3 encircled; also pencil marks, immediately below that the figure "P-4" in pencil marks. Immediately above the body of the letter, in red-ink stamped, A-76240. Opposite the numbers of shares set forth are red pencil check-marks; also red pencil underlining near the bottom of the letter. On the left hand margin of the letter in pencil are the words "Cards and tables not to be revised as per these figures. G. A. S."

On the bottom of the letter in ink, "Page 4."

With regard to pages 10 and 12, before designating the portion to be eliminated, I wish to question Mr. Colt further.

961 By Mr. Taylor: Q. Mr. Colt, I call your attention to page 10 of exhibit number 183, which we have just been discussing, and call your attention to the words in ink at the top of the page: "Andalusia Packing Company, Andalusia, Alabama", and I will ask you if you can state whether or not those words were written on the statement at the time it was mailed by you to the Federal Trade Commission?

A. I think that they were, I am not positive.

Q. Anyway, this statement refers to the condition of the Andalusia Packing Company at Andalusia, Alabama?

A. Yes, sir.

Q. I also call your attention to the words in ink, "File, P-10". Do you know whether those were written on the statement at the time it was mailed?

A. I do not know.

Q. Do they have any significance in your mind?

A. Not as far as I can see.

Mr. Taylor: Then I will exclude from the offer the words in ink "File P-10" appearing at the upper right-hand corner.

Q. I call your attention to the word "revision" stamped

on this page four times, and I will ask you if that word
962 was stamped on at the time the page was mailed by you?

A. No, sir.

Mr. Taylor: And I except from the offer the word "revision" appearing on the right-hand margin and on the top margin.

Q. I call your attention to the words in ink on the lower left-hand corner: "See letter October 9th." Do you know whether that appeared on the page as it was mailed by you?

A. I don't think it did.

Mr. Taylor: Then I will exclude those words from the offer.

Q. I call your attention to the apparent ink correction in the figures immediately following the word "hogs" in the upper left-hand corner, apparently corrected to read $798,-734.84. Do you recognize that change or correction? I call your attention to the fact that the correction is made in blue ink, the same ink that the rest of the report was made out in.

A. I think that was made before the report was sent out.

Q. And that is a necessary correction?

A. Yes, sir.

Q. I call your attention to a similar correction appearing a little lower down, opposite the word "freight," in which
963 the figure 5 appears to be written in in the same character of ink, making it read "27,035.71,'" and I will ask you the same question with regard to that?

A. Well, that looks as though it was very apparent that was changed when it was sent in.

Q. Mr. Colt, I now call your attention to page 12 of the same exhibit, and opposite the word "inventory" there is a similar blue ink alteration, making the figures read: "261,-079.09," and I will ask you the same question I did with regard to the other correction?

A. I am pretty sure the blue ink figure was changed before the report went in.

Q. I call your attention to the correction or change opposite the words "sundry items", where 3 is crossed out by apparently a pencil mark and the figure 6 written above it, making it read $67,709.09, and I will ask you the same question with regard to that?

A. I think that was changed after it was sent in.

Q. Have you made a computation of the figures here to determine whether or not such change was necessary to make the figures balance?

A. Yes, A-6 was necessary in place of the 3, in order
964 to make the debit and credit sides balance.

Q. To the best of your knowledge and judgment would you say that 6 is the correct figure there?

A. Yes, I would say it was correct.

Mr. Taylor: There also appears on this page, Mr. Examiner, in the upper right-hand corner, the figure 3 in a black ink circle, which is not offered, immediately beneath which are the figures "17-A" in pencil. On the lower right hand corner are the pencil characters "O. K." immediately beneath which encircled is the letter "M", immediately below which appear the figures "9/17/17". There are also check marks in pencil and in ink opposite various figures appearing upon the page, which are likewise not included in the offer.

Q. Mr. Colt, I call your attention to the fact that opposite your name, signed on page 9 of this exhibit, is the word "Treasurer". Does that indicate that you were at that time Treasurer of the Andalusia Packing Company?

A. Yes, sir.

Q. How long did you continue to be Treasurer of the Andalusia Packing Company?

A. Until March, 1918, to the best of my memory.

Q. Until the property was conveyed to Swift & Company?

A. Yes, sir.

965 Q. How long had you been Treasurer at that time, that is on September 20, 1917; in other words, when were you elected Treasurer?

A. I cannot say offhand.

Q. What is your best recollection?

A. About the first of September.

Q. I believe you testified that Mr. Chaplin instructed you to go to Andalusia. Now, did you make reports to Mr. Chaplin from time to time?

A. Yes, sir.

Q. What was the nature of those reports, I mean in a general way, I do not ask for anything in detail?

A. In a general way they covered the conditions of the progress of the Andalusia Packing Company's office.

Q. Just what do you mean by that?

A. Principally in regard to reports we were starting to make and additional help that we might hire.

Q. Reports that you were about to make to whom?

A. We needed reports in order to carry on a packing house business at Andalusia.

Q. Do you mean you needed to make reports, or needed to receive reports?

966 A. We needed to make reports or accumulate figures in order to see the progress of the Andalusia plant.

Q. To whom did you make these reports?

A. Some were handled locally in Andalusia, others were mailed to Chicago.

Q. And those that were mailed to Chicago were mailed to whom?

A. Swift & Company, general office, Chicago.

Q. To any particular person, or were they simply addressed Swift & Company?

A. Different reports went to different departments.

Q. What was the character of the different reports?

A. I cannot say offhand.

Q. For instance, would there be killing reports?

A. Yes.

Q. And sales reports?

A. Yes.

Q. Can you think of any other reports?

A. Departmental reports of results, livestock purchasing reports and various other miscellaneous reports that I cannot recall offhand.

Q. These were the same character of reports, were

967 they not, that are usually made by branch houses of Swift & Company—branch plants of the—

A. Not made by branch houses, by plants.

Q. Branch plants I should have said?

A. Yes, made by plants.

Q. The same character of reports that were continued to be made—

A. As far as I know.

Q. —by the Andalusia branch of Swift & Company after March 30, 1918, were they not?

A. Yes, as far as I know.

Q. Well, you made these reports, did you not?

A. Yes.

Q. You know the character of them?

A. Yes, sir.

Q. You had been traveling auditor for Swift & Company for years?

A. Yes, sir.

Q. You were pretty well qualified to say that they were the same character of reports, were you not?

A. I would say that they were of the same character of reports.

968 Q. Is there any respect in which they differed from the reports—

A. As the plant grew in capacity we made more reports from time to time.

Q. But there is no respect in which these reports which were made prior to March 30, 1918, differed from those made by ordinary branch plants of Swift & Company, was there?

A. No, sir.

Q. Now, you say these reports were sent to various people. For instance, to whom was the stock-killing report sent, if you now recall?

A. To the small plants department of Swift & Company, Chicago.

Q. Who was in charge of that?

A. Mr. A. B. Swift. I am not so positive that A. B. Swift was the head of that department at that time.

Q. Is Mr. A. B. Swift now at the head of that department?

A. Yes.

Q. And has been for some years at least, according to the best of your recollection?

A. He has been for one or two years, yes, sir.

Q. Do you recall who preceded Mr. A. B. Swift as the head of that department?

969 A. I think Mr. T. H. Ingwersen.

Q. Now, to whom were the hog and cattle purchase reports made, or rather to whom were they forwarded?

A. Oh, I thought we were just talking about the hog and cattle-killing reports.

Q. But this is purchasing reports I am now asking you about?

A. You asked me to whom the purchasing reports were forwarded?

Q. I am asking now about the purchasing reports. Previously I asked about killing?

A. The purchasing reports were forwarded to the same department.

Q. The reports of departmental results, to whom were they forwarded?

A. Forwarded to the Plant Accounting Department, Chicago.

Q. Who was the head of that department?

A. Mr. J. M. Chaplin.
Q. Now, to whom were sales reports forwarded?
A. The Small Plants Department, Chicago.
Q. And the credit reports, to whom were they forwarded? Were their credit reports made?
970 A. Yes.
Q. Do you recall to whom they were forwarded?
A. Forwarded to the Credit Department.
Q. Now, I again call your attention to this carbon copy of the letter from the Federal Trade Commission, to the Andalusia Packing Company, dated December 24th. Can you recall to whom you forwarded that letter, of which that is a carbon in Chicago?
A. I am pretty sure I forwarded it to the plant accounting department, Chicago.
Q. Who do you say was the head of that department?
A. Mr. Chaplin.
Q. Now, I show you here the schedule marked A-23 for identification. Have you looked this schedule over?
A. Yes, sir.
Q. Do you recognize it as a schedule prepared by yourself?
A. Yes, sir.
Q. And forwarded by you to the Federal Trade Commission?
A. Yes, sir.
Q. The date of this schedule is what?
A. October 5, 1917.
Q. Was that prepared by you as Treasurer of the
971 Andalusia Packing Company?
A. Yes, sir.
Q. And this states the correct facts to the best of your knowledge?
A. Yes, sir.
Mr. Horton: I object to counsel leading the witness. He is putting words in his mouth the witness does not intend to say.
Mr. Taylor: Mr. Examiner, leading questions such as this are so manifestly proper, I think it is totally unnecessary and superfluous to argue that point. In preliminary questions of this sort, laying the foundation for something to follow, it is a well-recognized rule that leading questions are proper.
Q. Now, I call your attention to page 4 of this report,

and I will ask you after refreshing your recollection by examining that, if you can state the number of cattle of the various kinds specified and the weight, which were killed during the period stated on the record. First you have 1916. Can you state when you started operations in 1916?

A. My notation on the report shows June 9, 1916.

972 Q. And at the time you made that notation you thought it was correct, did you not?

A. No, I took the word of those that had operated the plant previous to my arriving at Andalusia.

Q. And forwarded that as a report to the Federal Trade Commission that it was correct?

A. Yes, sir.

Q. Over your signature as Treasurer of the company?

A. Yes, sir.

Q. And you believed it was correct then?

A. Certainly.

Q. It was correct to the best of your knowledge and belief?

A. Yes, sir.

Q. Taking the date from June 9, 1916, down to January 1, 1917, can you state the number of cattle slaughtered?

A. The report shows—

Mr. Horton: Mr. Examiner, I object to that. The report speaks for itself. The witness states that he was not at that plant at that time, therefore he could not have any more information than what is given on the report and I do not see that anything is gained by trying to make the witness contradict the report or add to it, or confirm it.

973 Mr. Taylor: Mr. Examiner, the only portions of this report which appear at all relevant here are pages 4 and 5. In the light of counsel's objection, which I of course do not concede to be well taken, I am perfectly willing to offer pages 4 and 5 in evidence. I make the offer and in doing so I exclude from it on page 4 on the left hand margin certain initials appearing in ink marks encircled in red and black ink; page 5, certain words, letters and initials in red and black ink encircled, appearing near the middle of the page, near the right hand margin. Pages 4 and 5 are offered only.

Mr. Horton: You are referring to the paging in the lower right hand corner, Mr. Taylor?

Mr. Taylor: Yes.

Mr. Horton: We object to selecting certain portions of the report, and think that if any of it is offered the whole ought

to be offered. We object to it on the further ground that it is incompetent, irrelevant and immaterial.

Mr. Taylor: I now offer page 4, excepting for the reservations before mentioned as to that page.

Examiner Sadler: Page 4 will be received in evidence and marked Commission's Exhibit 184.

974 (The document was received in evidence and marked Commission's Exhibit No. 184.)

Mr. Taylor: I now offer page 5 in evidence, subject to the same reservations as to ink marks referred to in the original offer.

Mr. Horton: We renew our objection.

Examiner Sadler: The objection will be noted and page 5 will be admitted in evidence and marked Commission's Exhibit No. 185.

(The document was received in evidence and marked Commission's Exhibit No. 185.)

Mr. Taylor: That is all for the present.

Examiner Sadler: Recess until two P. M.

Whereupon, at 12:40 P. M. a recess was taken to 2 o'clock P. M. of the same day.

---

975 After recess.

Examiner Sadler: The hearing will come to order.

JOHN M. CHAPLIN, called as a witness, being duly sworn, testified as follows:

Direct Examination by Mr. Taylor.

Q. What is your full name, Mr. Chaplin?
A. John M. Chaplin.
Q. Where do you live?
A. Chicago.
Q. And what is your business?
A. Accountant for Swift & Company.
Q. Employed by Swift & Company?
A. Yes, sir.
Q. You are the same Mr. Chaplin who was referred to this morning by Mr. Colt in his testimony, are you not?
A. Yes, sir.

Q. How long have you been in the employ of Swift & Company, Mr. Chaplin?

A. About thirty-two years.

Q. In connection with the Accounting Department during all of that time?

976 A. Yes, sir.

Q. Right here in the Chicago office?

A. No, I was at Kansas City for a number of years?

Q. How long have you been in the Chicago office?

A. About twenty years.

Q. Mr. Chaplin, what is this paper which I now show you?

A. This is a memorandum taken from our investment ledger, and it shows the transactions in connection with the purchase of the capital stock of the Moultrie Packing Company.

Q. By your ledger, you mean the ledger of Swift & Company?

A. Of Swift & Company.

Q. The respondent in this case?

A. Yes.

Q. Is that a correct transcript of the ledger, Mr. Chaplin?

A. Yes, sir.

Q. This sheet opens with the statement "statement of investment entries in connection with the acquisition of Moultrie Packing Company capital stock." Does that appear upon the ledger, or is that an explanation which was placed on there?

A. An explanation.

977 Q. And that explanation was placed on the sheet by you, or caused to be so placed?

A. Yes, sir.

Q. The next paragraph is: "Cash binders destroyed when company's time limit for maintaining such records has been reached." Is that also an explanation?

A. Yes, sir.

Q. What is the time limit referred to in that explanation, Mr. Chaplin?

A. I think it is two years if I mistake not.

Q. Do I understand it is the custom of Swift & Company to destroy the cash records or binders containing the cash records at the end of two years?

A. Yes, sir.

Q. The next paragraph is: "Transactions reflected on

Swift & Company's books as follows:" Is that also an explanation?

Q. And those four entries following were taken directly from the investment ledger?

A. Yes, sir.

Q. Is that correct?

978 A. Yes, sir.

Q. Just as they appear here?

A. Yes, sir.

Q. The following words, "Grand total investment record entries covering the above, 966 shares, $120,750," was that taken from the ledger, or was that summary placed on there by you?

A. No, the total appears on the ledger.

Q. Do the words which I have just read "grand total investment record entries covering the above" appear in the ledger?

A. No, those words do not appear on the ledger.

Q. Those words were placed by you on this sheet by way of explanation?

A. Yes, sir.

Q. Then appears, after an asterisk the words: "Purchased February 5, 1918." A corresponding asterisk appears after the entry of November 5, 1917. Will you please explain what this corresponding asterisk indicates, what it means?

A. That means that ten shares were contracted for on November 5, 1917, and we charged the Moultrie capital stock investment account with the price that we had contracted to pay, $1,250, and we credited the seller of the shares

979 pending the payment.

Q. That is, with the $1,250?

A. Yes, sir, and then on February 5th we actually paid that in cash and charged it to the account.

Q. And received the certificates?

A. Yes, sir.

Mr. Taylor: I offer in evidence the sheet identified by the witness.

Mr. Horton: Objected to on the ground that it is immaterial and incompetent to prove any of the issues in this case.

Examiner Sadler: The objection will be noted and the paper will be received in evidence and marked Commission's Exhibit Number 186.

(The paper was received in evidence and marked Commission's Exhibit Number 186.)

Mr. Horton: I do not object because it is a copy of the account on the ledger, but my objection goes to the substance of the testimony, not to the form.

Mr. Taylor: In other words, I understand there is no objection on the ground that the exhibit offered is not the best evidence.

Mr. Horton: No.

980 By Mr. Taylor: Q. Mr. Chaplin, do you recognize this paper which I hand you?

A. Yes, sir.

Q. What is that paper?

A. A deed from the Andalusia Packing Company to Swift & Company, selling certain real estate in the State of Alabama.

Q. Does that deed convey all of the real estate which was owned by the Andalusia Packing Company prior to its delivery?

A. Yes, so far as I know.

Mr. Taylor: It is conceded on the record, isn't it? Mr. Horton, that this deed conveys all of the real estate that the Andalusia Packing Company owned?

Mr. Horton: I am not exactly informed as to that matter, but I feel sure that it does.

Mr. Taylor: Would it be possible to ascertain definitely, Mr. Horton?

Mr. Horton: Yes, we will check it up and let you know.

Mr. Taylor: Unless you report that the deed does not convey all of the property owned by the Andalusia Packing Company to Swift & Company, will it be proper to as-

981 sume, for the purpose of the record that it does include all such property?

Mr. Horton: It would not be proper to so assume.

Mr. Taylor: We offer in evidence the paper just identified by the witness as a deed of the Andalusia Packing Company to Swift & Company, dated March 30, 1918, and in doing so consent, with the acquiescence of counsel for the respondent, that a copy be received and marked in lieu of the original.

Mr. Horton: We consent that the copy be received as if and when the original deed will be admitted, but we wish to object to the admission of the deed in evidence on the ground

that it is improper, immaterial and irrelevant to the issues in this case.

Examiner Sadler: The objection will be noted and the deed will be received as evidence and marked Commission's Exhibit 187.

(The document was received in evidence and marked: Commission's Exhibit Number 187.)

Mr. Taylor: Mr. Examiner, I wish to call attention to the fact that the copy received as Commission's Exhibit Number 187 is complete, excepting that it does not have attached to it a copy of the County Clerk's certificate of Cook County, Illinois, which is attached to the original, cer-
982 tifying to the authority of the notary before whom the acknowledgment was taken, and that such a certificate is attached to the original.

Q. Mr. Chaplin, do you recognize the instrument which I now hand you?

A. Yes, sir.

Q. What is it?

A. A bill of sale of the property, goods and chattels of the Andalusia Packing Company to Swift & Company.

Q. Dated?

A. The 30th day of March, 1918.

Q. Can you state whether or not that bill of sale conveys all the personal property previously owned by the Andalusia Packing Company to Swift & Company?

A. I believe it does. I am not quite sure.

Q. In other words, the words are general in their character. Do you know whether or not a more specific statement was ever made out as to the property, title to which passed by virtue of this instrument which you have just identified?

A. There was a statement furnished showing the total price of the machinery, equipment, fixtures, horses, wagons and harness. I do not think that that portion of the
983 statement was itemized. I believe that there was an itemized statement of the merchandise, also of the cash and the bills and accounts receivable.

Q. The consideration here is recited as $1,000. That was not the actual consideration, was it?

A. No, sir.

Q. Can you produce the statement to which you have just referred?

A. I can produce a statement showing the totals of those

figures that I have just referred to. I do not know whether we have the itemized inventory of goods or not, or an itemized inventory account, but we have figures that show how much each of the items amounted to.

Q. I will ask you to produce those statements, and also any further detailed information that you are able to produce, showing exactly what passed under this bill of sale?

A. Yes, sir.

Mr. Taylor: I offer in evidence the bill of sale, and as in the offer, consent that a copy be received and marked in lieu of the original.

Mr. Horton: No objection to the copy as a copy, but we object on the grounds previously stated with reference
984 to the other deed.

Examiner Sadler: The objection will be noted and the paper will be received as evidence and marked Commission's Exhibit Number 188.

(The document was received in evidence and marked: Commission's Exhibit Number 188.)

By Mr. Taylor: Q. Mr. Chaplin, do you recognize the paper which I now hand you?

A. Yes, sir.

Q. What is it?

A. It is a deed conveying certain real estate in the State of Georgia, from the Moultrie Packing Company to Swift & Company.

Q. And dated?

A. The 24th day of November, 1917.

Q. And that deed was delivered by the Moultrie Packing Company to Swift & Company?

A. Yes, sir.

Q. I will ask you the same question with regard to the Andalusia deed, which has been identified and received here as exhibit number 187.

985 A. Do you mean as to whether it conveys all of the—

Q. No, whether it was delivered by the Andalusia Packing Company to Swift & Company?

A. Yes, sir.

Q. Do you know, Mr. Chaplin, whether this deed of the Moultrine Packing Company to Swift & Company, dated November 24, 1917, which you have just identified, conveys all of the property owned by the Moultrie Packing Company at that time?

A. Yes, sir, I believe it did.

Mr. Taylor: I offer the deed in evidence and at the time when I make the offer consent that a copy be received and marked in lieu of the original.

Mr. Horton: No objection to the copy as a copy, but we renew our objection as heretofore expressed on the offer of the Andalusia deed.

Examiner Sadler: The objection will be noted, and the paper will be received as evidence and marked Commission's Exhibit Number 189.

(The document was received in evidence and marked: "Commission's Exhibit Number 189.")

986 By Mr. Taylor: Q. Do you recognize the paper I now hand you, Mr. Chaplin?

A. Yes, sir.

Q. What is it?

A. A bill of sale from the Moultrie Packing Company to Swift & Company conveying their business, including the machinery, appliances, merchandise, cash, accounts, and all the other personal and moveable property.

Q. And that was supposed to convey all of the personal property of the Moultrie Packing Company?

A. Yes, sir.

Q. Have you anywhere a list of the personal property which was actually assigned by this bill of sale?

A. No, we have no list of the—

Q. Have you a statement such as the one you referred to in connection with the Andalusia property?

A. Yes, sir.

Q. I will now ask you if you will produce that statement?

A. Yes, sir, we will.

Q. I will further ask if you are able to find any list or record of the property which was actually transferred by this bill of sale, not the general terms used, in the records anywhere of Swift & Company, if you will kindly pro-

987 duce such lists?

A. Yes, sir.

Q. Or statement. This bill of sale was actually delivered by the Moultrie Packing Company to Swift & Company, was it, Mr. Chaplin?

A. Yes, sir.

Mr. Taylor: I offer in evidence the bill of sale just identi-

fied by the witness, and in so doing consent that a copy be received and marked in evidence in lieu of the original.

Mr. Horton: No objection to the copy as a copy, but we object upon the ground the bill of sale is incompetent and immaterial to prove any of the issues in this case.

Examiner Sadler: The objection will be noted, and the paper will be received as evidence and marked Commission's Exhibit 190.

(The document was received in evidence and marked: Commission's Exhibit Number 190.)

By Mr. Taylor: Q. Mr. Chaplin, I show you Commission's Exhibit 6, and I call your attention to the initials affixed to the signature, Swift & Co. per—what are those initials?

988 A. J. G. S.

Q. Do you recognize whose initials those are?

A. Yes, sir.

Q. By whom were they placed there?

A. Mr. Smithwick.

Q. Do you know whether that was a letter written by Mr. Smithwick?

A. Yes, sir.

Q. It is written by Mr. Smithwick, or was?

A. Yes, sir.

Q. At the time that letter was written, November 23, 1917, do you know whether Mr. Smithwick was an officer of the Moultrie Packing Company?

A. I do not.

Q. Do you know whether he ever was an officer of the Moultrie Packing Company?

A. No, I do not.

Q. Was Mr. Smithwick at that time an employe of Swift & Company?

A. Yes, sir.

Q. I show you Commission's Exhibit Number 8, and also call your attention to the signature of that letter, and

989 ask you if you recognize the initials there affixed?

A. Yes, sir—J. G. S.

Q. Whose initials the they?

A. J. G. Smithwick's.

Q. Was that letter written by Mr. Smithwick?

A. Yes, sir.

Q. That letter is dated November 28, 1917. Mr. Smith-

wick was at that time an employe of Swift & Company, was he not?

A. Yes, sir. That is the statement that you were asking about.

Q. Do you mean that the paragraph on the first page of Exhibit Number 8: "Exact assets of Moultrie Packing Company were as follows," followed by items of cash, inventory, accounts receivable, defrayed expenses, fixed investment, etc., is the statement that you referred to which represented goods that were transferred by the bill of sale?

A. Yes, sir, I believe it is.

Q. Is the item of $178,515.09 the actual consideration paid for that property by Swift & Company, do you know?

A. I judge so by that letter. I would have to actually check it on the books to make sure of it.

Mr. Horton: Do you mean, Mr. Taylor, when Swift
990 & Company purchased the lands and property from the Moultrie Packing Company?

Mr. Taylor: Yes, that is what I mean; that is, that is the consideration paid for the transfer of the property which passed under the bill of sale, at least, that is what I meant to ask.

Mr. Horton: Then the answer would not be correct, because this statement refers to fixed investments, which I take it means lands and buildings.

By Mr. Taylor: Q. Is it your understanding, Mr. Chaplin, that that included real estate, as well as personal property, the item of $178,515.09?

A. Yes, sir, assuming at the same time the liabilities of the company, which were $436,186.18.

Q. That is the total value of all of the property, real estate and personal, of the Moultrie Packing Company, was $614,701.27, and their liabilities amounted to $436,186.18; that that amount of liabilities was assumed by Swift & Company and credited upon the total value of the personal property and real estate as part of the purchase price, leaving a balance of $178,515.09, which was actually paid
991 by Swift & Company to the Moultrie Packing Company?

A. Yes, sir.

Q. That is your understanding?

A. Yes, sir.

Q. Do you know how that was paid, as a matter of fact?

A. No, I do not.

Q. Was there any book entry made at that time on the books of Swift & Company?

A. Yes, I believe there was.

Q. Do you recall, Mr. Chaplin, the character of the book entry that was made representing this purchase of property from the Moultrie Packing Company? I refer to the purchase of the physical assets from the Moultrie Packing Company by Swift & Company. The sheet you now have before you is exhibit 186, which shows the investment ledger entry, representing the purchase by Swift & Company of the stock of the Moultrie Packing Company. Subsequently on November 30, 1917, Swift & Company purchased from the Moultrie Packing Company its physical assets, the net purchase amount as appearing from this statement shown on Exhibit 8, being $178,515.09. Do you know how that amount was treated on the books of Swift & Company at that time?

992 A. There would be an entry on the journal. I do not believe there was any actual transfer of cash.

Q. Do you know whether there was any ledger entry?

A. Yes, I think there was an entry on the ledger.

Q. Do you recall the nature of the ledger entry that was made?

A. I do not recall the entry itself, but it would be an entry—it should be an entry from the stock investment account to the various accounts represented by the physical assets.

Q. Now, the total entries in the investment record on the Moultrie Packing Company's account aggregated $120,750, whereas the net purchase amount of the physical assets by Swift & Company from the Moultrie Packing Company amounted to $178,515.09, according to the face of this letter, Exhibit Number 8. Do you know how the difference between those two was treated?

A. I do not think that the time is the same in both cases. There is an interval of time between the two transactions, and the question of profit or loss in the business would affect the balances.

992 By Mr. Morton: Q. Wouldn't the question of investment also affect it?

A. Yes, the question of the additional investment that may have been put into the property.

Mr. Taylor: I object to that answer as assuming something they have not shown, and move to strike it out.

Examiner Sadler: The motion to strike will be allowed.

By Mr. Horton: Q. Mr. Chaplin, if any investments were made between June, 1917 and November, 1917, that is, investments which go to enhance the value of the property, such as additional buildings, and additional equipment, would not that account for the difference between these two items?

A. Yes, there would be that difference.

Q. Isn't it true that such betterments and additions were made?

Mr. Taylor: I object to that as not proper evidence, incompetent and irrelevant.

Examiner Sadler: The objection will be noted.

Mr. Taylor: And not the proper character of evidence?

A. There were items of investment made between these two documents.

994 By Mr. Taylor: Q. I show you Commission's Exhibit 26, and ask you if you recognize the initials by which that letter is signed?

A. Yes, sir.

Q. Whose are they?

A. Mr. Smithwick's.

Q. And that letter was written by Mr. Smithwick?

A. Yes, sir.

Q. Mr. Smithwick was an employe of Swift & Company at that time, was he not?

A. Yes, sir.

Mr. Taylor: That is all at this time, Mr. Chaplin.

Examiner Sadler: Any cross examination?

Mr. Horton: I understand Mr. Chaplin has been asked to produce some additional figures, and I will defer my cross-examination until that time.

Examiner Sadler: The witness will be excused.

(Witness excused.)

HARRY C. CARR, called as a witness, having been first duly sworn, testified as follows:

995 *Direct Examination by Mr. Taylor.*

Q. What is your full name, Mr. Carr?

A. Harry C. Carr.

Q. Where do you live?

A. Chicago.

Q. What is your occupation?

A. I am connected with Swift & Company.

Q. In what capacity?
A. In the livestock buying and dressed beef department.
Q. How long have you been connected with Swift & Company in that capacity?
A. Six years.
Q. And where is your headquarters, Chicago or elsewhere?
A. Chicago.
Q. Were you employed by Swift & Company previous to the six years to which you have just referred?
A. No, except that I was with one of their subsidiary companies, the Plankinton Packing Company, of Milwaukee.
Q. How long were you with Plankinton Packing Company?
A. Twenty years, about twenty years.
Q. What was the nature of your work there?
A. Manager of the Plankinton Packing Company.
996 Q. That is, at that time you had general supervision of the whole business and works?
A. Yes, sir.
Q. Mr. Carr, are you familiar with the plant which formerly belong to the Moultrie Packing Company at Moultrie, Georgia?
A. I am not.
Q. Were you ever at Moultrie?
A. Never.
Q. You knew as a matter of fact that the stock of the Moultrie Packing Company was acquired for the benefit of Swift & Company, did you not?
Mr. Horton: I object to that question as leading.
Examiner Sadler: The objection will be noted.
A. I do not. I do not know anything about the stock of the Moultrie Packing Company.
Q. You knew that Swift & Company had some interest there—acquired some interest there about June 1, 1917, did you not?
A. I knew that they had some interest in the Moultrie Packing Company, yes, sir.
Q. Did you have anything whatever to do with the negotiations leading up to or even subsequent to the ac-
997 quisition of that interest there?
A. No, I do not remember of anything.
Q. I show you Commission's Exhibit Number 28, which is a carbon copy of a letter, or rather the minutes of a meet-

ing in the Directors' room, fourth floor, Tuesday, May 22, 1917, 9:15 a. m., and I will ask you to read that over and state whether or not it refreshes your recollection in any way, regarding the Moultrie transaction?

Mr. Horton: Did you mean to ask if it was a meeting of the Directors or a meeting held in the Directors' room, Mr. Taylor?

Mr. Taylor: A meeting held in the Directors' room. I stated it. The question is whether or not this exhibit refreshes the recollection of the witness.

A. Yes, sir, after seeing this I remember that I was present at this meeting referred to.

Q. You now recall that you were present at such a meeting, do you not, Mr. Carr?

A. I do, yes, sir.

Q. And that the things recited in these minutes actually took place at that meeting?

A. Yes, sir, I remember I was present at that meeting.

998 Q. And you remember now, do you not, that the things which are recited in these minutes actually took place at that meeting?

A. I do.

Q. Mr. Carr, do you not also recollect that you afterwards became a stockholder and a Director of the Moultrie Packing Company?

A. Yes, sir, I do.

Q. In fact, 125 shares of stock stood in your name?

A. Yes.

Q. And that 125 shares of stock was paid for by Swift & Company, was it not?

A. It was.

Q. And the certificates were endorsed by you in blank, were they?

A. I presume they were.

Q. Do you recall what you did with them?

A. I do not.

Q. To the best of your recollection, you turned them over to Swift & Company, did you not?

A. Yes, to the best of my recollection.

Q. Mr. Carr, the minutes of this meeting held in the
999 Directors' Room, appearing as Exhibit Number 28, on the second page it is stated: "Correspondence between this office and Mr. Vereen and Mr. Brooks is for the pres-

ent to be handled in the name of H. J. Nelson, except that Mr. Carr may correspond in his own name with Mr. Vereen and Mr. Brooks. Letters from Chicago are to be written on plain stationery."

Do you remember that you did correspond in your own name with Mr. Vereen or Mr. Brooks?

A. No, sir, I do not.

Q. That is, you do not recall whether you did or did not?

A. I do not recall whether I did or did not.

Q. I show you what purports to be a copy of a letter written by you under date of June 1st, 1917. I will ask you to read it and state whether or not that refreshes your recollection?

A. I recollect writing such a letter, yes, sir; to Louis F. Swift.

Q. My question was misleading. I said such a letter. That letter is to Louis F. Swift, not to Mr. Vereen, as my question implied?

A. This is just an office letter in our own office.

1000 Q. Written from one department to another?

A. That is right, a matter of detail in our own office.

Q. And that refers to the shipment of beef from Moultrie?

A. To Chicago.

Q. To Chicago. What was the nature of that shipment, I mean for what purpose was it made?

A. It was a shipment of dressed beef, as the letter shows, in the ordinary course of business, what we call canner cattle, shipped from the Moultrie plant to our Chicago cutting room, I should judge from the cost of it.

Q. Now, I show you Commission's Exhibit Number 154, and I will ask you if you recall having seen that paper before. (Showing witness paper.)

A. There is nothing to identify where it was made out. I may or may not have seen it. I really cannot tell.

Q. You are unable to recall or to determine definitely at the present time whether or not you ever did see it before?

A. No, sir.

Q. I show you Commission's Exhibit Number 3, and ask you to read it, and state whether or not you recall having seen that letter before, or the letter of which that is a copy?

A. I do not recall it, but I presume I did see it, as

1001 my initials are on it.

Q. Mr. Carr, do you recall negotiations which were

pending along in the early summer of 1917, for the acquisition of certain stock of the Andalusia Packing Company?

A. Yes, sir, I do.

Q. I show you Commission's Exhibit Number 17, and will ask you if you recall writing the original of which that letter is a copy?

A. Yes, I do.

Q. I now show you Commission's Exhibit 18, and ask you if that is a copy of the letter which was received in reply to Exhibit 17, which you have just examined?

A. I do not recollect receiving such a letter, and I presume it is in answer to the other one. I am not sure.

Q. I will ask you to again look at Exhibits 17 and 18 together, and see if that will assist you in answering the question?

A. Yes, sir, one is an answer to the other and I recognize both of them.

Q. I now show you Commission's Exhibit 20, and ask you if that is a copy of the reply which you made to Mr. Henderson's letter of July 2nd, which appears as Exhibit 18?

1002 A. Yes, sir.

Q. I show you Commission's Exhibit Number 19, and ask you if you recall writing that letter?

A. Yes, sir, I do.

Q. The last paragraph of this letter states: "Also we expect to send some one to Andalusia in the course of a few days who will be manager or acting manager of the plant, or something like that, until the organization is perfected." Do you recall whether or not that was done, Mr. Carr?

A. I cannot recall, sir, offhand, whether that was done or not. I presume it was, but I cannot recall.

Q. Do you know who went down there for Swift & Company as its manager?

A. I do not recall who went down as manager at first, at that time. Later on we had as manager Mr. Rogers.

Q. Do you recall when it was that Mr. Rogers went down there?

A. No, sir; I do not; not long after the plant was acquired, but I cannot tell.

Q. You mean not long after the purchase of the stock?

A. Yes, not long after that.

Q. Before the physical assets were actually conveyed

1003 to Swift & Company?

A. I do not remember.

Q. Some time between the two?
A. I do not remember about that.
Q. You have no recollection, though, with regard to whether it was before or after the actual conveyance of the physical assets by the Andalusia Packing Company to Swift & Company?
A. No, I do not remember.
Q. I show you Commission's Exhibit Number 23, and will ask you to examine that and state whether or not you recall writing the original of which that is a copy?
A. Yes, sir; I recall this letter.
Q. You examined the plant at Andalusia before the stock was acquired, did you not, Mr. Carr?
A. Yes, sir; I did.
Q. And went down there on behalf of Swift & Company, did you?
A. Yes, sir.
Q. What is the method by which the representatives of Swift & Company receive their expense money, by check from Swift & Company or by cash from Swift & Company, when they return?
1004 A. Expenses would be credited to their account, that is all.
Q. You turn in a voucher on your return for the amount of money you have expended, and are given a credit for that amount?
A. It might be that way, it might be several ways.
Q. How was it done in a case where you traveled for Swift & Company?
A. The way I indicated.
Q. Simply credited to your account the amount after your return?
A. Yes, sir.
Q. And your expenses on that trip were treated in the usual way, by crediting them to your account with Swift & Company on your return?
A. Yes, sir.
Q. On returning from this trip to whom did you report as to the conditions you found in Andalusia?
A. To the Directors of Swift & Company.
Q. Did you make that report in writing or orally?
A. Both ways, to the best of my recollection.
Q. It was after receiving that report, was it not, Mr.
1005 Carr, that they proceeded to acquire the stock of the Andalusia Company?

A. Yes, sir.

Q. You were afterwards a director of the Andalusia Company, were you not, Mr. Carr?

A. Yes, sir.

Q. I show you here Commission's Exhibit Number 41, and I will ask you if you recall the meeting of which that is a copy of the minutes?

A. Yes, sir, I recognize that document.

Q. I call your attention to the Resolution appearing near the end of the minutes here to the effect that G. D. Rogers be and he is hereby authorized to countersign all checks made by the corporations. I will ask you if that is the same G. D. Rogers to whom you referred a short time ago, as the manager?

A. Yes, sir.

Q. Was Mr. Rogers there at the time this meeting was held, as Manager?

A. I do not recall whether he had been appointed Manager then or not. He may have been.

Q. He may have already been at Andalusia at the
1006 time this meeting was held. This meeting was held, by the way, at Chicago. Now, Mr. Carr, I will ask you who the President was who tendered his resignation as appears by the minutes here?

A. T. E. Henderson.

Q. Mr. T. E. Henderson, former President of the Andalusia Packing Company?

A. Yes, sir.

Q. Who was Mr. T. H. Ingwersen, who was selected to succeeed Mr. Henderson as President?

A. Mr. Ingwersen was an employe of Swift & Company.

Q. In what capacity was he employed by Swift & Company?

A. He was connected with their cattle-buying department, beef department.

Q. According to the next paragraph, Mr. S. B. Milligan resigned as Vice-President. Who was Mr. Milligan, do you know?

A. I do not know, I never met Mr. Milligan.

Q. Is it your understanding that he was some local man?

A. Yes, I presume so.

Q. Some resident of Andalusia or thereabouts?

A. Or thereabouts, I presume so.

1007 Q. From the next paragraph it appears that J. J. Johnson resigned as Second Vice-President. Do you know who Mr. Johnson was?

A. I do not.

Q. Would you say to the best of your knowledge that he was probably some Andalusia man, or thereabouts?

A. I assume so.

Q. From the next paragraph it appears A. C. Darling was Secretary and Treasurer; that he tendered his resignation and it was accepted. Do you know who Mr. Darling was?

A. Yes, sir; I know Mr. Darling.

Q. Who was he?

A. He was a resident of Andalusia.

Q. It appears that Mr. C. A. Peacock was unanimously elected to fill the vacancy created by Mr. Darling's resignation as Secretary. Who is Mr. Peacock?

A. He was an employe of Swift & Company, Assistant Secretary.

Q. Assistant Secretary of Swift & Company at the time of his election?

A. Yes, sir.

Mr. Horton: Mr. Hayward was Secretary at that 1008 time, Mr. Carr?

A. Yes.

Mr. Horton: Peacock was Assistant Secretary?

By Mr. Taylor: Q. It appears that Mr. C. M. Williamson was elected Treasurer to fill the vacancy created by the resignation of Mr. Darling as Treasurer. Do you know who Mr. Williamson was?

A. Yes, Mr. Williamson was an employe of Swift & Company.

Q. In what capacity was he employed at that time?

A. I don't recollect.

Q. Mr. J. J. Maguire was elected assistant treasurer. Do you know who Mr. Maguire was?

A. Yes, sir, he was an employe of Swift & Company.

Q. Where was he employed, here in Chicago?

A. In Chicago.

Mr. Taylor: That is all.

Cross-Examination by Mr. Horton.

Q. Mr. Carr, in your direct examination you mentioned canner cattle. Will you please explain what you mean by canner cattle?

1009 A. Cattle that are ordinarily used for cutting purposes, as distinguished from what we call shop beef.

Q. And how does the quality of such cattle compare with cattle that are ordinarily used for food purposes; that is, cut up into steaks, roasts, and so forth?

A. They are not as good quality.

Q. How would you describe their appearance or their character?

A. Light in weight, not well finished.

Q. Usually thin?

A. Thin, yes.

Q. Usually small cattle?

A. Small thin cattle.

Q. On your direct examination you stated that you examined the plant of the Andalusia Packing Company before the stock was acquired. Will you please explain the occasion of your visit there and the nature of the examination?

A. We had in mind establishing a packing plant in the south at some favorable location, and we knew of this plant at Andalusia, and I went down there to look it over, called on Mr. Henderson at his office, introduced myself to him, visited the plant with him, and Mr. Emerson stated

1010 they might consider selling the plant. There was nothing definite in the way of an offer either from them or from us made at that time to the best of my recollection. I came back to Chicago and reported on the plant, location, and so forth.

Q. Why was it Swift & Company wanted to have a plant in the south?

A. We had a good many branch houses all over the south, and live stock raising was increasing down there, and we thought it would be well to look into the matter of having a plant at some favorable location in the south to supply our regular trade.

Q. What plan did you work on when you first outlined it, or what was your idea with regard to establishing a plant in the south?

Mr. Taylor: I object to the question as too indefinite and uncertain. Do you mean what plan did Swift & Company work on, or what plan did Mr. Carr work on?

Mr. Horton: What plan did Swift & Company work on?

Mr. Taylor: I object to that as Mr. Carr was not a part of Swift & Company except as an employe. He was not a director and not an officer, and presumably he received
1011 instructions from Swift & Company. If that is what your question is intended to relate to, I do not know that I have any objection to it.

Mr. Horton: Certainly, so far as the witness knows it. I do not expect him to answer anything that is not within his own knowledge.

Examiner Sadler: The objection will be noted.

A. My idea was to find the most favorable location for a plant and then consider establishing one there. By favorable location I mean taking into consideration the supply of live stock available and the transportation facilities. After studying that proposition over, we rather thought that Montgomery was the most favorable location for a plant, on account of its location and went there to look it over. Andalusia was near by Montgomery, and before doing anything definitely at Montgomery we went to Andalusia to see what they had there. When we found out there was a plant there, although the location we hardly thought was as favorable as Montgomery, and we found that the owners might consider selling it, we took it under consideration.

Q. That is to say, it was your intention to build a plant at Montgomery, was that the idea, or is that the propo-
1012 sition you were considering?

A. That was the proposition we were considering.

Q. Well now—

Mr. Taylor: Who was considering?

A. Swift & Company.

Q. You had charge of this matter for Swift & Company, did you not?

A. Yes, sir.

Q. That is, you were working it out for them?

A. I was.

Q. What caused you to change your plans with regard to building a plant at Montgomery?

A. We found that this plant was at Andalusia, which was near Montgomery, and it was doubtful whether there would be enough live-stock to keep two plants running, and if a plant had been located at Montgomery, which was probably more favorably located from a transportation standpoint, we hardly thought that the other plant would be in as favorable

a location as ours. We were not disposed to take any action to hurt those people down there, so we wanted to consider purchasing their plant, provided they were willing to sell.

That is the situation in as concise shape as I
1013 can tell you.

Q. About the time you went down to look at the plant, was Mr. Hunter with you?

A. Yes, he was.

Q. Did you receive a wire, a telegram from Mr. L. F. Swift, President of Swift & Company?

A. Yes, sir; while Mr. Hunter and I were in Montgomery, we received a telegram from Mr. Louis F. Swift, telling us not to do anything in regard to the Montgomery proposition until we had a conference.

Q. Did you people subsequently have a conference with him?

A. Subsequently had a conference with him.

Q. How soon afterwards?

A. Immediately.

Q. He came over there, or you met him somewhere?

A. He came to Montgomery while we were there.

Q. What did he say to you and what did you say to him?

Mr. Taylor: Mr. Examiner, I submit this is going too far afield in the cross-examination, too far away from the direct examination.

Examiner Sadler: The objection will be noted.

Mr. Taylor: I object to counsel going into conversa-
1014 tions had with officers of the respondent concern here on cross-examination.

Examiner Sadler: The objection will be noted.

A. He said to us that he had heard of this other plant at Andalusia, and he wanted us to go and look it over and not do anything about Montgomery until we had made a full report on Andalusia as to the size and capacity of the plant, and as to whether or not the owners of the plant were disposed to sell it.

By Mr. Horton: Q. Did he say anything else?

A. He said that he did not feel like going ahead with Montgomery in view of other plants in that vicinity, words to that effect.

Q. Did he say why he did not feel like going ahead with Montgomery, what the effect would be on other plants?

A. He said if we should establish ourselves at Montgomery and the plant should be successful—

Mr. Taylor: Do I understand, Mr. Examiner, this is all subject to my objection?

Examiner Sadler: Yes.

Mr. Taylor: My objection is that it is not proper
1015 cross examination and it is incompetent, irrelevant and immaterial evidence. If they want to introduce it, the proper way is to put Mr. Swift on the witness stand to testify what was said. What Mr. Swift may have said at this time does not bind the Commission.

A. He said if we established ourselves at Montgomery, words to that effect, and the plant was successful and would draw live stock and interfere with the business of the other plant, that it would create a situation that he did not want to be a party to.

Q. Did he say anything that it would be better to buy the other plants even if they were not favorably located?

A. Yes, he did say that.

Q. What was that?

A. He said in effect that he would prefer to buy the other plant, even though not as favorably located as Montgomery, if the people that now owned it wanted to sell it at a reasonable price.

Q. Did you subsequently make the agreement as to price with the directors of the Andalusia Packing Company?

Mr. Taylor: That is objected to as not proper cross-examination.

1016 Examiner Sadler: The objection will be noted.

A. I went to Andalusia a second time and got an option on the shares of the Andalusia Packing Company.

Q. How did you arrive at the price to be paid for the shares, what was the basis for it?

A. It was based on their assets, land, buildings, equipment, inventory.

Q. Then what was done?

A. A value was placed upon the assets, the land, the buildings and the inventory. We agreed to take over the business of the Andalusia Packing Company at the agreed price per share.

Q. How did you arrive at the price per share?

Mr. Taylor: That is objected to, Mr. Examiner, as not proper cross examination.

Mr. Sadler: The objection will be noted.

A. We asked them what they would sell their shares for,

and they told us. We took it under consideration, and finally accepted the proposition.

Q. Was not the price placed upon the shares in relation with the number of shares to the value of the assets?

Mr. Taylor: That is objected to for the same reason.

1017 Examiner Sadler: The objection will be noted.

A. Yes, it was. We also told them that we would—if they preferred to do so we would buy their physical assets and let them liquidate their business, do it either way they wanted to sell, either buy the shares or take it over as a going concern, or we would agree on a price for their land, buildings and equipment, and they could liquidate their product on hand and their own accounts and liabilities, and they finally decided to sell the shares.

Q. To refresh your recollection a little, wasn't there some reason that you had as to why you wanted to buy the shares also?

Mr. Taylor: That is objected to, Mr. Examiner, as not proper cross examination and not competent. He has already answered the question.

Examiner Sadler: The objection will be noted.

A. We wanted to be sure to secure all of the shares, as long as we had gone into it, so that there might be no possibility of any small share-holder being dissatisfied.

Q. Isn't it true to say that you felt the only way you could buy the proposition and keep everybody satisfied, was to have each man sell and assign his particular

1018 shares of stock?

A. Yes.

Q. You felt that by that action he would have shown himself satisfied?

A. Yes, sir.

Q. Not only with the price he received for it, but with the purchaser as well?

A. Yes, sir.

Q. Isn't it true that you desired to have the good will of the people in that vicinity along with the plant?

A. Yes.

Mr. Taylor: And also of their customers.

A. Yes, sir.

Q. Isn't it also true that if you had purchased the physical assets from the corporation, that the action in selling the plant might have been taken by a majority of the stockholders, leaving the minority dissatisfied?

A. Yes, sir.

Mr. Taylor: I object to that, Mr. Examiner, as not proper cross-examination, going into the realm of speculation, and entirely outside of the scope of the cross examination; incompetent, irrelevant and immaterial.

1019 Examiner Sadler: The objection will be noted.

Q. Now, Mr. Carr, isn't it correct to say in substance, that what you did was to purchase that plant as a going concern?

A. Yes.

Mr. Taylor: I object to that.

Examiner Sadler: The objection will be noted.

A. Yes.

Q. And that it was in effect the purchase of the physical assets and good will of the Andalusia Packing Company?

Mr. Taylor: Mr. Examiner, now before that question is answered I wish the objection to be seriously considered. If the witness be permitted to answer that question I shall expect the next one to be whether or not this proceeding shall not be dismissed.

Examiner Sadler: The objection will be sustained.

Mr. Horton: I think that is all.

Redirect Examination by Mr. Taylor.

Q. When was it you went to Andalusia, from Montgomery, can you fix the date?

1020 A. I can only fix the date by referring to this correspondence. It was in the spring of 1917 to the best of my recollection.

Q. This exhibit—this letter here, exhibit 19, dated July 6th—

A. That was after they had gotten along in the transaction. I said the spring of 1917.

Q. It was about the same time that negotiations were opened or were closed for the purchase of the Moultrie plant, was it not?

A. Yes, it was about that same time.

Q. You went down to Andalusia, and went over the books and accounts of the plant pretty carefully to ascertain the amount of business they were doing, where they were doing it, the amount of pork and beef they were selling, and the places they were selling, did you not?

A. No, I did not go over the books.

Q. Somebody made an examination of the books for you, did they not?

A. Yes.

Q. So that you knew exactly what you were doing, and knew what you were getting when you bought the stock?

1021 A. Yes, we did.

Q. Knew where the company was doing business?

A. Yes, sir, in a general way knew where they were doing business.

Q. Knew about how much it was selling in every place in which it was doing business?

A. No, sir.

Q. Didn't you look into that?

A. Not as to where they were selling it, except in a general way. That was immaterial to us. We had branch houses.

Mr. Taylor: Mr. Examiner, I move to strike out the last part of that answer as not responsive, "that was immaterial to us," as not responsive to the question.

Mr. Horton: I object to that being stricken out. I think that is responsive.

Examiner Sadler: The motion to strike will be noted.

Q. You knew that the Andalusia Packing Company, for instance, was selling goods at Birmingham, did you not?

A. Yes.

Q. Knew it was selling a very considerable amount there?

A. I did not know anything about the amount they were selling.

1022 Q. Didn't you look up or have the records looked up, to see how much they were selling there?

A. No, sir.

Q. Did you merely content yourself with ascertaining how much they were selling all over?

A. Yes, sir.

Q. You did not determine the amount of sales they were making?

A. Yes, I could determine the amount of sales they were making. I judged from the volume of business they were doing.

Q. You did determine the volume of business they were doing?

A. Approximately.

Q. You knew they were selling goods in Atlanta?

A. Yes.

Q. In Pensacola?

A. Not specifically.

Q. Did you yourself look at the books, or did you have some one else do it for you?

A. I did not look at their books at all myself.

Q. From who did you receive your information as to the condition of the company as disclosed through the books,
1023 that is, as to the amount of business that was being done?

A. A representative of Swift & Company's accounting department went to Andalusia.

Q. Who was that?

A. I am not sure, but I think it was Mr. Matthies, O. E. C. Matthies.

Q. Mr. Matthies made a report of the condition he found there, did he not?

A. Yes, sir.

Q. Did you see that report?

A. Yes, sir.

Q. Did you tell Mr. Henderson that if the stock of the Andalusia Packing Company was not sold to Swift & Company, that Swift & Company would construct a plant at Montgomery?

A. No, sir, I did not.

Q. Did you tell him that Swift & Company was contemplating the construction of a plant at Montgomery?

A. No, sir, I did not. I told him they were considering—

Q. They were considering constructing a plant at—

A. Not at Montgomery.

Q. They were considering constructing a plant in that vicinity, is that the way you put it?

1024 A. In the south.

Q. How did you put it, as nearly as you can recall?

A. I do not remember just how I did tell Mr. Henderson. I think I told him that we were looking over the southern field.

Q. Did he know that you were about closing negotiations, or had closed negotiations for the acquiring of the stock of the Moultrie Packing Company at that time?

A. I don't know whether he did or not.

Q. Why was it it was considered necessary to have two plants in the south?

A. Well, that can only be answered by saying that they were in different localities, not drawing their supplies of

live stock from the same source. There was not enough live stock tributary to both.

Q. What was the territory from which the Moultrie Packing Company drew its live stock?

A. Largely from the State of Alabama.

By Mr. Horton: Q. Do you mean Alabama or Georgia? You said Alabama.

A. The Moultrie Packing Company.

Mr. Taylor: Yes.

1025 A. I answered that question wrong. The Moultrie Packing Company I understood drew their supply largely from Georgia and Florida.

Q. Do you know how large a territory they drew their supply from, an area of how many miles?

A. No, I do not—you are talking about Moultrie?

Q. I am talking about Moultrie now. Over an area of how many miles did the Andalusia Packing Company draw their live stock from?

A. It has been so long since I have gone into that, I could not answer except in a very general way. I imagine a radius of 100 or 200 miles.

Q. And the Moultrie Packing Company did about as much business as the Andalusia, did it not, perhaps a little more?

A. I think more, I am not sure.

Q. Probably drew its live stock from an equally large territory, did it not?

A. I am not familiar enough with the Moultrie territory to answer that question.

Q. Do you know how far apart Moultrie and Andalusia are?

A. I do not know. I did know at one time, but it has gone out of my mind. On an air line they are not very far
1026 apart. There are not through lines or anything of that kind, connecting them.

Q. How was the stock transported which was bought by these various plants? By railroad, or was it driven in on the hoof?

A. Mostly by railroad, but I assume some was driven.

Q. That is, some from near-by points?

A. In the natural course of business, I presume some was driven in.

Q. Did Mr. Henderson or anybody else down there ever tell you that in the summer time it was necessary to close this

plant because they could not get enough hogs, or to close this other Andalusia plant?

A. I don't know that he told me it was necessary to close it. He told me in the summer time the supply of live stock was very very light, which is a seasonal condition that everybody is familiar with.

Q. That condition which you say everybody is familiar with existed generally throughout that section of the country, I assume, did it not, Georgia and Alabama and Florida?

A. I presume it did over Georgia and I do not remember so much about that as I do about the Andalusia.

1027 Q. So you think that everybody is not as familiar with conditions over there as they might be in Alabama?

A. They have a broader territory to draw from at Moultrie, and it is generally known the supply of hogs is small in the territory, therefore the plant that has the largest territory to draw from has more of a chance to get a supply.

Q. Their territory extended over part of Georgia, part of Alabama, and down into Florida, I believe, did it not?

A. Moultrie?

Q. Yes?

A. Generally speaking, yes.

Q. Did you consider it a better location at Moultrie than at Andalusia, that is, for the purpose of getting live stock?

A. I do not know.

Q. I take it then that you do not know as intimately what considerations actuated the respondent Swift & Company in acquiring the Moultrie stock as you do in regard to the Andalusia stock?

A. Not as intimately.

Q. Mr. Carr, you say you made a report to the Board of Directors both orally and in writing on your return from your examination. I will ask you if you can produce

1028 the copy of that report, the written report I mean.

A. I think I can.

Q. Will you please do so?

A. Yes, sir.

Mr. Taylor: That is all.

By Mr. Horton: Q. Mr. Carr, in your re-direct examination counsel for the respondent referred to the report of Mr. Matthies. I hand you herewith the document marked Exhibit Number 57, and ask you if that is a copy of that part of the report of Mr. Matthies?

A. This is apparently a report on the Moultrie Packing Company.

Q. There has been what I take to be an inference in the question of counsel for the Commission, which directs itself against the motive which led you to acquire these plants; that is to say, that you were actuated by the motive that the Andalusia Packing Company and the Moultrie Packing Company were strong competitors throughout the south in the selling end, is that right? Was there such a motive?

Mr. Taylor: I object to that question as not proper cross-examination.

1029 Mr. Horton: I will change that question.

Q. When you examined this plant didn't you direct your attention more to the production end than whether or not the supply of hogs and livestock was available?

Mr. Taylor: That is objected to.

A. Yes, I did.

Examiner Sadler: The objection will be noted.

Q. Wasn't that the basis upon which you wanted to go into that country, because it was getting to be a producing live stock country?

Mr. Taylor: That is objected to as calling for a conclusion of the witness entirely, and not proper cross-examination.

Examiner Sadler: The objection will be noted.

A. Yes.

Q. Now, as I understand it, you are the man in the Swift & Company organization who initiated the purchase of these two plants in the southern territory, that is to say, Moultrie & Andalusia, is that right?

Mr. Taylor: I object to the question as calling for a conclusion of the witness.

Mr. Horton: Not a conclusion, but a fact.

1030 Mr. Taylor: What did he say? You say initiated. Maybe he did maybe he did not.

Mr. Horton: You asked him what he did.

Mr. Taylor: I did not know of any reason, I did not ask that, and I do not see why you should go into it on cross examination. Furthermore, I object to the question as calling for a conclusion.

Examiner Sadler: The objection will be noted.

A. Yes, I think I was mainly responsible for looking into the situation of the production of live stock in the south, and following that up, we took under consideration the advisability of locating a plant in the south, either by building one or purchasing one.

Q. Isn't it true that there were some stock coming out of that territory into the St. Louis market and the Louisville market and other places where you purchase hogs?

A. Yes.

Q. Did you take into consideration the fact that you were purchasing those hogs and then shipping them back south again?

A. Yes, we did.

Q. You thought that instead of shipping them up alive and shipping them back dressed, it would be better to

1031 have a plant in that neighborhood?

A. Yes.

Mr. Taylor: I object to what the witness thought.

Examiner Sadler: The objection will be sustained.

Q. What have you to say as to that territory at the present date as a live-stock producing center?

Mr. Taylor: Is this still cross-examination?

Examiner Sadler: Do you make an objection?

Mr. Taylor: If this is intended as cross-examination, yes, I object as not proper cross-examination, going into new fields entirely.

Examiner Sadler: The objection will be sustained.

Q. Were these large plants or small plants?

A. Small plants.

Q. Do you know about what the capacity of the Andalusia plant was in June say, 1917, do you recall?

A. I cannot recall. The report that I promised to present will show what that was, but I do not recall it.

Q. I call your attention to the document marked Exhibit A-23 for identification, which gives the capacity of the Andalusia Packing Company as three cattle, no calves, 45 hogs and no sheep per hour. Is that about right?

1032 A. I think it is about approximately correct.

Q. Now, how does that compare with say the Chicago plant of Swift & Company?

A. Broadly speaking it is so small there is no comparison.

Q. That is to say, this is so small it is negligible?

A. It is negligible.

Q. Do you recall what the killing capacity was of the Moultrie Packing Company?

A. No, I do not.

Q. I call your attention to the document marked exhibit number 97, which gives the killing capacity of the Moultrie

Packing Company, that is, the slaughtering capacity per hour at 5 cattle, no calves, 60 hogs, no sheep?

A. I should think that would be substantially correct.

Q. That would be about right?

A. Yes.

Q. And the same answer would apply on the matter of comparison with a modern packing plant in this case as in the case of the Andalusia Packing Company?

A. So small as to be negligible.

Q. Mr. Carr, do you know what the capacity of the 1033 Chicago plant is here per hour?

A. I know what is on cattle, sheep and lambs. I do not know exactly what it is on hogs. Our killing capacity for cattle is 430 per hour, sheep 1,400 per hour. On hogs I am not positive.

Mr. Taylor: Was it substantially the same in 1917 when these figures of the Andalusia and the Moultrie Packing Company plants respectively were made up?

A. Yes, sir.

By Mr. Horton: Q. Are you familiar with whether or not these two plants killed up to their capacity from day to day?

A. At that time?

Q. Yes, at that time, that is to say, during the year 1917?

A. To the best of my recollection they killed capacity only part of the time.

Q. Would that be a large part of the time, or a medium part of the time, or a small part of the time?

A. A small part of the time.

By Mr. Taylor: Q. Mr. Carr, I will show you a document here, entitled "Food investigation, special report, 1034 slaughtering and meat-packing, schedule B, statistical statement," the name of the company being Swift & Company, and I will ask you if you recognize the signature appearing on page 10, according to the printed page of the report?

A. Do I recognize Mr. Hayward's signature?

Q. Yes?

A. Yes, I do.

Q. Whose signature is it?

A. T. J. Hayward, Secretary.

Q. Secretary of Swift & Company?

A. Secretary of Swift & Company.

Q. I will ask you to turn to the answer to Question 4 in this report, and state what is shown there as the killing ca-

pacity of Swift & Company at the Chicago plant, and of the Moultrie Packing Company?

A. I recognize these. Swift & Company, cattle 250, calves 1200, hogs, 1,750; sheep 1,000. And also at Chicago—this has got to be considered together, both the Chicago plants—they are separate plants, but they are handled as one—150 cattle, 350 calves, 500 hogs 350 sheep, making a total of 400 1035 cattle, 1550 calves, 1250 hogs and 1350 sheep at Chicago.

Q. And the second set of figures that you read commencing with 150 cattle, represent the killing capacity of—

A. The G. H. Hammond Company.

Q. What is the G. H. Hammond Company?

A. Part of Swift & Company.

Q. Is it a plant owned by Swift & Company as a corporation, or is it an associate corporation, if you know?

A. I am not fully positive.

Q. And the capacity is shown there of the Moultrie as how much?

A. 8 cattle per hour, no calves, 150 hogs, no sheep.

Q. Is the capacity of the Andalusia Packing Company shown there?

A. No, it is not.

Mr. Taylor: I think that is all.

Examiner Sadler: Any other re-cross examination?

Mr. Horton: I think not.

Examiner Sadler: The witness will be excused.

(Witness excused.)

Whereupon, at 5:15 o'clock P. M. June 3, 1921, the further hearing of said cause was adjourned to June 4, 1921, at ten o'clock A. M.

1036 Chicago, Illinois, June 4, 1921,

Ten o'clock A. M.

Met pursuant to adjournment.

Parties present as before.

Examiner Sadler: The hearing will come to order.

Mr. Taylor: Mr. Examiner, Mr. Horton has just handed me the letter described in the subpoena pursuant to which Mr. Chaplin appeared yesterday. This is the letter from Albert H. & Henry Veeder to R. C. McManus, dated October 9, 1917, wherein it was stated among other things that the

Andalusia Packing Company owed over $200,000 which Swift & Company assumed and agreed to pay. This is the original letter mailed about the period of its date, and upon the assumption that Mr. Horton will acquiesce in the statement which I have made without the production of a witness, I am offering this in evidence.

Mr. Horton: I acquiesce in that part of the statement that states it is an original letter from A. H. & Henry Veeder to R. C. McManus, and is dated October 9, 1917, and was received by Mr. McManus, but I object to its introduction in evidence for the reason that it is a letter from one law-
1037 yer to another regarding their client's business, Albert H. & Henry Veeder being chief counsel for Swift & Company, and Mr. McManus being general attorney for Swift & Company, therefore the letter is a privileged communication; and further, that the letter is not competent evidence and is immaterial and irrelevant to the issues in this case.

Examiner Sadler: The objections will be noted and the letter will be received as evidence and marked Commission's Exhibit 191.

(The letter was received in evidence, and marked: Commission's Exhibit Number 191.)

CHAN B. COLT, recalled for further examination, being previously sworn, testified as follows:

Direct Examination.

By Mr. Taylor: Q. Mr. Colt, I again call your attention to the schedule A-73 for identification, and ask you to look at page 7 thereof. That page was intended by you, was it not, to show the total number of pounds of commodities named in the headings on hand at the time specified in the left-
1038 hand column?

A. Yes, sir.

Q. I observe that on January 31, 1916, you report there was no record made of stock on hand; is that correct?

A. To the best of my knowledge, yes, sir.

Q. At the time of making that statement on there, did you examine the records of the Andalusia Packing Company, to ascertain if it was possible to insert figures under any of those columns?

A. I found that the records of the Andalusia Packing Company were very incomplete.

Q. Did you find that you were unable to obtain any information as to the number of pounds of frozen beef that you had on hand on January 31, 1916?

A. I made strenuous efforts to ascertain these figures, but to no avail.

Q. And found that you could not obtain the number of pounds of smoked hams and bacon on hand on January 31, 1916?

A. Yes, sir.

Q. And was it the same with regard to dry salt pork?

A. Yes, sir.

1039 Q. On the same day?

A. Yes, sir.

Q. Pickled pork?

A. Yes, sir.

Q. Lard?

A. Yes, sir.

Q. Lard compounds and substitutes?

A. Yes, sir.

Q. And hides?

A. Yes, sir.

Q. Was the same true in regard to each month following in the left hand column of this page 7?

A. Yes, sir.

Q. Except December 31, 1916, that is, you have figures for that month?

A. That was the first available figures that I could find.

Q. Now, beginning January, 1917, January 31st, where you have no record marked, does that mean that you were unable to find the figures for that period?

A. Yes, sir.

Q. For February 28, 1917?

1040 A. Yes, sir.

Q. The marking would indicate that you were unable to find records of any figures for that month?

A. Yes, sir, that is it.

Q. And the same March 31st?

A. Yes, sir.

Q. On April 30, 1917, you have figures?

A. Yes.

Q. And those were the correct figures shown on the records of the Andalusia Packing Company at that time?

A. Yes, sir.

Q. After that the page shows no further figures. Does that indicate that your records were such that you were unable to determine the amount of the respective kinds of meat or product on hand at the times mentioned?

A. Yes, sir.

Q. Were you able to determine from your records the respective amounts of meat or products on hand at any period other than December 31, 1916, and April 30, 1917?

A. The only available records —

Q. That is, I mean during the period of time covered by this sheet from January 31, 1916, to July 31, 1917?

1041 A. The only available records that I was able to find were inserted on page 7.

Q. And those figures inserted on page 7 of that exhibit are correct?

A. To the best of my knowledge.

Mr. Taylor: I offer page 7 in evidence.

Mr. Horton: Let me cross-examine, please.

Cross-Examination.

By Mr. Horton: Q. Mr. Colt, the figures referred to by counsel for the Commission, were they shown by the books of the Andalusia Packing Company?

A. Yes, sir.

Q. And for the period covered, that is 1916 and the first seven months of 1917, did you have anything to do with making those figures?

A. No, sir.

Q. Did anyone connected with the respondent Swift & Company have anything to do with making those figures?

A. No, sir.

Q. So far as you are concerned, it was a question of producing figures which were taken from records made by

1042 somebody else?

A. That is it.

Q. With which you had no connection and had no control?

A. Yes.

Q. You had to take the books as you found them?

A. Yes.

Q. I notice that counsel has used the expression that you were not able to find any figures. Is that true or is it not true, that you were not able to find any figures?

A. My report shows that I found figures in 1916, date of

December 31st, also 1917, date of April 30th. If there were any other figures I was unable to find them at the time of making the report.

Q. By my question I assumed that you took into consideration the nature of the report that you were making, and that you took into consideration the proportion of things, and that while there might be some figures that would perhaps show some products on hand, that you did not deal with minor quantities, or with figures which would not go to make up an intelligent report, is that right?

Mr. Taylor: I object to the form of the question, and I object to the assumption of counsel for the respondent.

1043 I object to the attempt of counsel to put words into the mouth of the witness, who is manifestly a friendly witness.

Examiner Sadler: The objection will be noted.

Mr. Horton: Answer, please.

(Question read as above recorded.)

A. That is it exactly.

Mr. Horton: I object to the introduction of page 7 in evidence here for the reason that it is incompetent and irrelevant to the issues in this case, and further, the report was made up for a specific purpose and made up from figures which the respondent had nothing to do with, and with only an attempt upon the part of the witness to give the figures it had available for the purpose requested, and should not be introduced in a hearing of this kind.

Mr. Taylor: Mr. Examiner, before there is a ruling on the admissibility of this exhibit, I should like to ask the witness some further questions which seem pertinent in view of the answers he made to the questions of Mr. Horton on cross examination.

Examiner Sadler: Permission granted.

Direct Examination (Continued.)

1044 By Mr. Taylor: Q. Mr. Colt, the books from which you took these figures appearing on page 7 were the books and records of the Andalusia Packing Company, were they not?

A. Yes, sir.

Q. At the time this schedule was made up and for some months prior thereto, you had been in complete charge of the office of the Andalusia Packing Company, had you not? and the accounting department of it?

A. Let me see the date.

Q. The date is October 5, 1917, which this schedule was signed?

A. Yes, about two months.

Q. Possibly more, had you not?

A. From the middle of August I would say to the 5th of October, when the report was made.

Q. I believe you testified yesterday that you were there before the acquisition by Swift & Company of the stock of the Andalusia Packing Company?

A. Yes, sir.

Q. So if that occurred before August, you must have been there earlier than August?

A. I was under the impression that occurred in 1918, in March.

1045 Q. The acquisition of the stock?

A. I am not thoroughly posted on the acquisition of the stock.

Q. These books of the Andalusia Packing Company, you found to be correct, so far as you were ever able to check them back, did you not?

A. I was not employed to check back those old figures.

Mr. Taylor: I will ask that the witness answer the question that I asked him.

(Question read as above recorded.)

Q. I am not referring to any of the figures now, but the books of the company?

A. As far as I know they were correct.

Q. You always found them to be correct?

A. So far as I knew.

Q. And used them as the books of the company?

A. Yes, sir.

Q. Made correct entries in them?

A. Yes, sir.

Q. What attempt if any did you make to check back the amount of smoked hams and bacon which you had on hand on December 31, 1916?

1046 A. I made strenuous efforts to compile this information.

Q. What did you do, aside from looking at the books, to show what was on hand at that time?

A. As a matter of fact, these records as I remember it were not kept in a permanent file, kept more or less on a loose leaf system which had been misplaced or destroyed.

Q. From what did you take these figures?
A. I am pretty sure from their loss and gain statements.
Q. When were these loss and gain statements made out?
A. At the time they were recapped on this report.
Q. At what period of the year I mean were they made out?
A. They were not made up monthly.
Q. That is what I want to get at, when were they made up, and at what periods?
A. As I remember it, they made them only once in 1916.
Q. One loss and gain statement made up and that was on December 31, 1916?
A. That is my recollection of it.
Q. It was figured from that loss and gain statement which you took in inserting the figures as they appear on page 7 of the schedule?
A. Yes, sir.
1047 Q. That is for the date December 31st. Now, is it not a fact that you simply accepted that loss and gain statement without attempting to check back and verify the correctness of it?
A. I simply used the figures that they showed on their compiled statement.
Q. Did you examine the books to ascertain if they showed in any place the amount of goods on hand at any of these other months?
A. Yes, sir.
Q. And you found that they did not?
A. I could not find the information.
Q. Did you look for inventories?
A. Yes.
Q. What was the result of your search?
A. I could not find them.
Q. Did you make any inquiry as to whether an inventory had been made?
A. A good many.
Q. From whom did you inquire?
A. From the manager and bookkeeper.
Mr. Horton: By that you mean the former manager and the former bookkeeper?
1048 A. The former manager and the former bookkeeper.
Q. As a matter of fact, was it not a matter of knowledge at that time that the only inventories that were

made during the period covered by this page 7 were made on December 31, 1916, and April 30, 1917?

A. That is my recollection of it.

Q. And to furnish the information required on this record for any other months would have required monthly inventories for each of the months, would it not?

A. Yes, sir, it certainly would have required closing records at the close of each month.

Mr. Taylor: Now, Mr. Examiner, I will ask that the question asked of the witness by counsel for the respondent to which I objected, be again read to the witness at this time.

(The question referred to, appearing on page 1814 was again read to the witness.)

Q. How do you answer that question?

Mr. Horton: Let the reporter read the answer.

(The answer referred to, appearing on page 1815 was read to the witness.)

Q. Now will you explain exactly what you meant by that answer?

1049 A. I meant that I put in a great deal of time, realizing that this report was of importance, and tried to find available information that I could report. As before stated, it was my recollection that they did draw off a few figures for their personal—for the previous manager's personal information, which were not kept as permanent records, and I felt that they were of no avail to this report.

Q. So that all of the information that you were able to obtain as to stock on hand at these various periods, is represented in this report; is that a correct statement?

A. Yes, sir.

Q. And you did not ignore any other figures, no matter how small or trivial they may have been?

A. Yes, if I found any other figures which I was not positive of, ignored them, otherwise I would have put them on the report.

Q. Do you mean to say that you were able to find anything on November 30, 1916, showing the amount of smoked ham and bacon on hand that you did not put in there?

A. I cannot remember that I found anything for any of these periods that I did not put in, but it is my recollection that they had some few figures that were not perma-

1050 nent records.

Q. Who had figures that were not permanent records?

A. The manager.
Q. How did the manager get these figures?
A. I think he compiled them himself.
Q. Were they not a part of the Accounting Department?
A. I did not consider them as such.
Q. Did he refuse to let you see them?
A. No, sir.
Q. Did you ask him to see them?
A. Yes.
Q. What did he say?
A. He said they were not complete.
Q. What became of those figures?
A. I do not know.
Q. Did you ever see them?
A. I think that I did.
Q. In whose possession were they when you saw them?
A. Probably in the Manager's.
Q. Who is the Manager?
A. Mr. Connor.
Q. Did you ever see them after that?
1051 A. No, sir.
Q. Up to what time did you have charge of the records and books in the office of the Andalusia Packing Company, how late a time?
A. Starting with about the middle of August, 1917.
Q. Up to how late a time, when did you leave there?
A. Well, I was transferred from charge of the office to the selling end after I had been there about eight months.
Q. When was it that your custody and control over the books and records of the Andalusia Packing Company ceased?
A. As near as I can remember, about May, 1918.
Q. And during all of that time these figures that you say Mr. Connor had were never a part of the papers, records or documents that were in your control or under your custody, is that correct?
A. That is it.
Mr. Taylor: Now, I again offer page 7 of the exhibit.
Mr. Horton: We renew and repeat our objections.
Examiner Sadler: The objections will be noted and the page will be received as evidence and marked Commission's Exhibit Number 192.
1052 (The document was received in evidence and marked: Commmission's Exhibit No. 192.)
Mr. Taylor: That is all.

Cross-Examination by Mr. Horton.

Q. Mr. Colt, when you said that you went to Andalusia before the stock was purchased by Swift & Company, to what did you have reference and what did you mean by the word stock, or to what time were you referring?

A. I think what I meant was at the time Swift & Company purchased the stock of the Andalusia Packing Company.

Q. By that do you mean the capital stock or do you mean the physical assets?

A. I meant the physical assets.

Q. What time were you referring to, what time of the year, what month?

A. May I say something without its being taken down?

Q. Just talk for the record.

A. Did I make this statement today or yesterday?

Q. Counsel for the Commission seemed to assume that you made it yesterday.

Mr. Taylor: Mr. Examiner, all we want is the correct
1053 date when Mr. Colt went to Adalusia. I assume that he has records here in Chicago which will show when he did go. Now, if he will look up those records and state when it was he went there, it would very greatly simplify this whole matter and cut put all these possible misunderstandings. That is all we are after.

Mr. Horton: That is just the trouble, Mr. Taylor. You have taken the words of the witness at their technical value instead of their face value, and you have endeavored to show that he went there before Swift & Company purchased the capital stock.

Mr. Taylor: That is what he stated.

Mr. Horton: If such was the case—

Mr. Taylor: That is what he stated.

Mr. Horton: If—I feel sure the witness did not mean that, because he stated he went there—

Mr. Taylor: If he did not mean that I would be very pleased to have him correct it on the record.

Mr. Horton: That is just what we are trying to do now.

Mr. Taylor: What we are really trying to get at are the facts. If he can look up this record—

1054 By Mr. Horton: Q. Mr. Colt, Mr. Taylor makes a distinction between the alleged purchase of the capital stock of the Andalusia Packing Company, meaning the

shares which are part of the physical corporation of the Andalusia Packing Company, which he claims took place some time in June or July, and he is trying to place you in Andalusia before that, and that is what he means when he says the purchase of the stock, he means the capital stock, the corporate shares. I take it you did not refer to that, is that correct?

A. Absolutely correct.

Q. You do not know anything about that, do you?

A. No, sir.

Q. You do not know when they were purchased, if they were purchased?

A. I did not even know about the Andalusia plant.

Q. What you are referring to by the stock, you mean when the physical assets were taken over by Swift & Company in March, 1918?

A. Certainly.

Q. Yesterday you spoke about sending reports to Chicago after you had been down there in charge of the books. I will ask you if those were reports of future or past 1055 transactions?

A. They were reports of past transactions.

Q. You went ahead and transacted your business and then sent your reports in as shown by the books?

A. Yes, sir.

Mr. Horton: That is all.

By Mr. Taylor: Q. Mr. Colt, records here in Chicago will show when you went to Andalusia, will they not?

A. Yes, I think they will.

Q. I will ask you to look up those records and determine exactly when it was, and let us know on Monday.

Mr. Horton: Mr. Taylor, I feel like explaining that Mr. Colt is going on his vacation today.

(At this point the witness went to the telephone, after which he resumed the stand.)

The Witness: After telephoning to the office of Swift & Company I am informed that records there show that I went to Andalusia on August 13, 1917.

(witness excused.)

1056 C. H. WALLOW, called as a witness, being first duly sworn, testified as follows:

Direct Examination by Mr. Taylor.

Q. What is your full name, Mr. Wallow?
A. C. H. Wallow.
Q. Where do you live, Mr. Wallow?
A. Chicago.
Q. What is your occupation?
A. Clerk.
Q. What kind of a clerk?
A. At the present time I am confidential clerk.
Q. For whom?
A. For the estate of G. F. Swift.
Q. Are you in the employ of Swift & Company?
A. Yes, sir.
Q. How long have you been in the employ of Swift & Company?
A. About twenty years.
Q. Continuously?
A. Yes, sir.
1057 Q. Received your salary from Swift & Company during all of those twenty years?
A. Yes, sir.
Q. During what part of the twenty years that you were in the employ of Swift & Company did you not receive your salary from Swift & Company?
A. From June until November, 1917.
Q. Who paid you your salary during that time?
A. The Moultrie Packing Company.
Q. How do you receive your money, by check, cash or—
A. By check.
Q. By whom was the check signed?
A. By the Moultrie Packing Company, power of attorney of the party who was acting at that time.
Q. Who was that?
A. Mr. C. E. Hurst.
Q. Where was this check drawn?
A. Moultrie, Ga.
Q. On what bank?
A. Various banks, three banks that were located in Moultrie.

Q. What were the names of hese three banks?

1058 A. Moultrie Banking Company; First National Bank and Citizens National Bank. We did business with all three banks.

Q. During that time did you receive no salary whatever from Swift and Company?

A. No, sir.

Q. Part of your work was not paid by Swift & Company during that period that you were receiving these checks from the Moultrie Packing Company?

A. No, sir.

Q. Prior to the time that you went to Moultrie what had been your occupation with Swift & Company?

A. I was clerk in various accounting departments, at South St. Paul, and about 1915 I went out as traveling auditor, checking up our plants.

Q. Did you continue as traveling auditor up to the time that you went to Moultrie?

A. Yes, sir.

Q. And just when was that as nearly as you can now recall?

A. I said I arrived in Moultrie about June 16 or 17, 1917.

Q. When you arrived at Moultrie what did you do?

A. I just took charge of the office.

Q. Had charge of the books and accounts of the Company?

1059 A. The accounts in the office.

Q. Entire charge of the accounting end of the business?

A. Yes, sir.

Q. You or those under your control kept all the records from that time on?

A. Yes, sir.

Q. That is, I mean for so long as you remained there?

A. As long as I remained there.

Q. I believe you said that was up to November some time, 1917?

A. Yes, sir.

Q. What was that exact date of your leaving, as near as you can now recall?

A. I was there afterwards. I left there on December 11, 1920.

Q. Were you there continuously from June, 1917, until December, 1920?

A. Yes, sir.
Q. Who instructed you to go to Moultrie?
A. Mr. J. M. Chaplin.
Q. And while you were there did you make reports to anyone here in Chicago?
1060 A. Various reports on clerical matters.
Q. To whom did you make these reports?
A. Mr. Chaplin.
Q. What was the nature of these reports?
A. Just asked what we thought of the organization that we had at that time, principally to see whether they were capable timber of performing our duties as clerks.
Q. Whom do you mean asked?
A. Individual clerks we had at that time.
Q. I asked you what was the nature of these reports that you made to Mr. Chaplin. I think you must have misunderstood my question.
A. They were not reports, they were just personal observations, what I thought of the clerks we had at that time.
Q. Did you make statements and send them to him showing the progress of the business?
A. No, sir.
Q. Were any financial reports or anything of that sort sent to Chicago during the time you were there?
A. We mailed monthly result statements each month.
Q. From the time you went?
A. Yes, sir.
1061 Q. And were there any other statements that you mailed?
A. We would mail a few plant operating statements to the various departments in Chicago.
Q. What was the character of these plant operating statements?
A. The purchase of cattle, or slaughtering of cattle. The same would apply on hogs.
Q. Take the purchase of cattle and hogs, to whom was that report made?
A. We generally sent them to the Beef Department, Chicago office.
Q. How frequently were those reports made?
A. We would send them in monthly.
Q. From the time you went down there?
A. Yes, sir.

Q. Take the slaughtering reports, to what department were those sent?

A. We would send them to the Beef Department.

Q. To the Beef Department?

A. To the Beef Department.

Q. And how frequently were those reports made?

A. For a while when we first went down there, 1062 monthly, and then later on we would send them in weekly.

Q. Can you say about when you commenced sending them in weekly?

A. If I remember right, it was about the first part of December.

Mr. Horton: What year?

A. 1917.

Q. Now, about hog purchase reports, to whom did you send those?

A. They would go into our branch house Provision Department, Chicago.

Q. And those were how frequently made?

A. Some we would send in weekly, the same as on the cattle reports. It was a combination report.

Q. Which would you send weekly?

A. Slaughtering and purchasing was on the same report.

Q. That is, with regard to hogs or with regard to cattle, or both?

A. Hogs and cattle, a combination report.

Q. You say some you sent weekly. What ones did you send weekly?

A. The purchase and killing of cattle and hogs from 1063 December, 1917.

Q. Up to that time they had been sent out monthly?

A. That is, I understand the manager of the office at that time sent them in. I had nothing to do with them.

Q. What manager?

A. That was in Moultrie.

Mr. Horton: I move to strike out all the witness' testimony as to what the manager did.

Examiner Sadler: The motion to strike will be noted.

Q. Who made out these reports?

A. Clerks.

Q. What clerks?

A. Under my jurisdiction.

Q. Who were some of these clerks?
A. Mr. Hurst was one of them.
Q. Just what did Mr. Hurst do aside from drawing checks?
A. He was head bookkeeper.
Q. The keeping of the books was under your jurisdiction, control and supervision?
A. Yes, sir.
Q. What other clerks made out these reports, if any?
A. There was no other. I mailed them out myself.
1064 Q. All of these reports were made out by you and Mr. Hurst under your supervision or direction?
A. Yes, sir.
Q. Were these reports made out on regular forms, regular printed forms?
A. No, sir, they went on letter heads mostly.
Q. Moultrie letter heads, Moultrie Packing Company letter heads?
A. Yes, sir.
Q. When Mr. Chaplin instructed you to go to Moultrie did he give you any instructions?
A. No, sir.
Q. What did he say, as near as you can now recall?
A. Just go down and take charge of the office. I understood I was to take charge of the accounting matters.
Q. Was there no elaboration in the conversation?
A. No, sir.
Q. That you had with him as to what your duties were to be?
A. No, sir.
Q. You went down under a blanket authority to go down and take charge of the office?
1065 A. Yes, sir.
Q. And you did it?
A. Yes, sir.
Q. You spoke about making comments to Mr. Chaplin from time to time after you went down there as to the character of the clerical force you had and the characteristics of various men and what you thought of them. What reply, if any, did you receive from Mr. Chaplin to those comments?
A. I received none, never acknowledged them to me.
Q. Did you make any recommendations along with those reports?
A. No.

Q. Is it correct to assume that you found the men there of satisfactory character?

A. Yes.

Q. They were doing their duties well?

A. Yes, sir.

Q. No occasion to make any changes?

A. No, sir.

Q. Mr. Wallow, I show you a book marked Commission's Exhibit E for identification, and I will ask you if you recognize that as the minute book of the Moultrie Packing Company. Please look it over.

1066 A. Yes, sir.

Q. And the minutes of the Stockholders' meeting held on January 5, 1918, were signed by you as secretary of the meeting, were they not, Mr. Wallow?

A. Yes, sir.

Q. Were you at that time Secretary of the Moultrie Packing Company?

A. I was.

Q. And those minutes represent what actually took place at the meeting and are a correct transcript of the Resolutions passed?

A. Yes, sir.

Q. Do you recognize the signature above the description, Chairman of the meeting?

A. Yes.

Q. Whose signature is that?

A. Luthsinger's.

Q. Who is Mr. Luthsinger?

A. He was manager of the Moultrie Packing Company.

Q. During what period if you recall was he there as manager?

A. I do not just know exactly when he was appointed manager.

A. I do not just know exactly when he was ap-
1067 pointed manager. He went down with me in June, 1917.

Q. He was there as manager on the 5th of January, 1918?

A. Yes, sir.

Q. And for some time thereafter?

A. Yes, sir, shortly after that.

Q. I call your attention to the minutes of the Board of Directors of the Moultrie Packing Company, November 3,

1917, and ask you if you recognize the signature of the Secretary of the meeting affixed to those minutes?

A. Yes, sir, Mr. C. A. Peacock's.

Q. Who was Mr. C. A. Peacock?

A. He was Secretary of the meeting also.

Q. What other position did he hold, if any?

A. I do not just recollect his title with the Moultrie Packing Company.

Q. Did he have any title with Swift & Company?

A. Yes, sir.

Q. What was it?

A. I think he was Assistant Secretary.

Q. And this meeting was held at Chicago?

A. Yes, sir.

Q. Mr. Wallow, do you know whether or not a list
1068 or inventory of personal property was ever made up to show exactly what passed by the bill of sale from the Moultrie Packing Company to Swift & Company under date of November 3, 1917?

A. No, sir.

Q. By that do you mean you do not know?

A. I do not know.

Q. Do you know whether any of the records at Moultrie will show what property passed by this bill of sale of November 3, 1917?

A. I cannot say.

Q. This bill of sale describes the property as follows: "All machinery, appliances, equipments, tools, utensils, fixtures, furniture, horses, wagons, harness and automobiles; all merchandise manufactured and in process of being manufactured; raw material and supplies; all cash on hand or in bank; all bills and accounts receivable, and generally any and all personal or movable property of every description wherever situated, whether included in the aforesaid enumeration or not."

Now, did any of the records kept at Moultrie show what the Moultrie Packing Company owned in the way of machinery?

1069 A. Yes, sir; the company's books.

Q. What book would that appear in?

A. In their general ledger.

Q. Now, with regard to appliances, what would be your answer?

A. You mean in equipment?

Q. They have here both appliances and equipment, tools, utensils and fixtures?

A. I do not know how they were taken up on the books.

Q. Would these all appear on the ledger?

A. As tools or buildings or machinery.

Q. How about furniture?

A. That was also shown as a separate item.

Q. On the ledger?

A. To the best of my recollection, yes.

Q. How about horses?

A. They had no horses on hand.

Q. No horses at all on November 3, 1917?

A. No, sir.

Q. And wagons?

A. They had no wagons.

Q. And harness?

1070 A. They had none.

Q. And automobiles?

A. They had none.

Q. Now, what merchandise manufactured or in process of being manufactured—where would that appear on the books?

A. Well, I do not know as that would appear on their records at all, as they did not keep any inventory records in the general ledger books.

Q. Can you say at this time that that information could be found on the records anywhere at Moultrie?

A. I believe so.

Q. Where would you say?

A. I think you can possibly find it in the ledger, or might possibly find it in some form of report. I cannot just remember how it was kept at that time.

Q. Would it be possible to keep a record of the merchandise manufactured and in process of manufacture, without taking inventories from time to time?

A. Yes, sir.

Q. How would that be kept, in the form of ledger entries and ledger accounts?

A. Kept in loose papers.

1071 Q. Not kept in any book?

A. No, sir; not carried in any.

Q. If you were to go to Moultrie to endeavor to ascertain what the company had on hand in the way of merchandise on the 3rd of November, 1917, how would you go about finding it?

A. It is a hard question to answer. You might possibly be able to locate the figures.

Q. Where would you look for the purpose of locating them in the ledger first?

A. We would try the general ledger and then also investigate what files we may have on hand at the present time, running back to that date.

Q. Do you know whether or not an inventory was made at the time of this transfer of the goods of the Moultrie Packing Company to Swift & Company?

A. I do not know, no sir.

Q. You do not know?

A. I do not know.

Q. If such an inventory had been made it would have been made under your supervision and control, would it not?

A. Yes, sir.

Q. Now, what is your recollection as to whether such
1072 an inventory was or was not made?

A. I cannot say. I do not just know whether one was made for that purpose or not.

Q. That would show the amount of cash on hand in bank on the 3rd day of November, 1917 in those books?

A. The general ledger.

Q. Under what head?

A. Under the item heading of cash or banks, as far as I can recollect.

Mr. Taylor: I haven't anything further.

Cross-Examination by Mr. Horton.

Q. Mr. Wallow, you spoke in your direct examination about special reports that were made from time to time to the departments you mentioned. Were those reports of past or future business?

A. Past.

Q. And am I correct in understanding that you went ahead and transacted your business and then made your reports?

A. Yes, sir.

Mr. Taylor: Mr. Wallow, did you ever hear of a report of future business?

1073 A. Well, I have in grain transactions.

Examiner Sadler: The witness will be excused.

(Witness excused.)

Mr. Horton: Yesterday Mr. Taylor asked me to ascertain

if the deeds conveying certain real estate from the Andalusia Packing Company and the Moultrie Packing Company to Swift & Company described all of the real estate owned by those companies. I have made inquiry and I am informed that the said deeds do and did convey all of the real estate owned by those two companies.

Whereupon, at 11:50 o'clock A. M., June 4, 1921, the further hearing of said cause adjourned to Monday, June 6, 1921, at one o'clock P. M.

1074 Chicago, Ill., June 6, 1921,

One o'clock P. M.

The hearing was called at one o'clock P. M. at the office of the Commission, and for the convenience of counsel and witnesses, adjourned to the General Office of Swift & Company, Union Stock-Yards, Chicago, at two P. M.

June 6, 1921,

Two o'clock P. M.

Parties met pursuant to adjournment.

Present: Same as before.

J. M. CHAPLIN, recalled for further examination, having been previously duly sworn, testified as follows:

Direct Examination by Mr. Taylor.

Q. Mr. Chaplin, you are the same Mr. Chaplin who appeared as a witness in this proceeding on Friday, are you not?

A. Yes sir.

Q. Have you been able to find any invoice or list of personal property which passed under the bill of sale
1075 executed by the Moultrie Packing Company to Swift & Company, and delivered on November 3, 1917, or by the Andalusia Packing Company, and delivered to Swift & Company on March 30, 1918?

A. Yes, I produce these two statements.

Q. What is this statement which I now hand you?

A. This is a statement covering the bill of sale of the Moultrie Packing Company, showing the class of assets and the amount of each that were transferred at that time.

Q. The statement which you have just identified includes an item here of land, $1,648.75, and buildings $105,546.38. That property was not included in the bill of sale, was it? but rather under the deed?

A. That would be covered by the deed.

Q. Can you state, Mr. Chaplin, the source from which these figures came?

A. They represent the balances shown by these accounts on the books of the Moultrie Packing Company at that time, and are represented in our books by an entry in our journal, journal sheet.

Q. And the figures were received by Swift & Company from the Moultrie Packing Company at Moultrie Georgia?

A. Yes, sir.

1076 Q. And to the best of your knowledge I assume they are correct?

A. Yes, sir.

Q. The first item here is cash, $24,425.63. Was that cash carried in various banks in the name of the Moultrie Packing Company?

A. Yes, sir, that would be money in different banks, also some money in the office.

Q. The next item is inventory, $243,789.18. Can you state what that represents?

A. That represents the book value of the meat and by-products and supplies on hand on that date.

Q. What would supplies include?

A. Supplies would include coal and boxes and salt and sugar and material for curing and material for packing.

Q. And possibly some other things?

A. Yes, all materials other than the meat and by-products.

Q. Have you any way of stating what portion represented meat and what represented materials other than meat?

A. I think about 85 per cent meat and by-products, and 15 per cent supplies, would be my estimate.

Q. How do you arrive at that estimate? Have you

1077 any figures upon which to base it, or is that merely your personal opinion?

A. That is an opinion based on my knowledge of the business, what the general average is of those commodities.

Q. Have you any definite knowledge in this case just what part of that was meat and what was not?

A. No, I have not.

Q. The next item is Accounts Receivable—$37,279.94. Do you know what that would represent, Mr. Chaplin?

A. That would represent debts due us from customers to whom we sold meat and by-products.

Q. By us do you mean the Moultrie Packing Company or Swift & Company?

A. Moultrie Packing Company.

Q. The next item is deferred expenses, $3,560.63. Can you state what that would represent?

A. That represents certain items of expense for which we have expended the money, but which covers future periods, such as taxes, insurance and other items of that kind.

Q. The next is land, $1,648.75. Do you know what that represents?

A. That would be the book value of the land.

1078 Q. On which the plant is located?

A. On which the plant is located.

Q. The next is buildings, $105,546.38. What does that represent?

A. That would be the book value of the buildings.

Q. The next is machinery, $38,562.55.

A. That would be the book value of the fixed machinery.

Q. What will be the character of that machinery, if you know?

A. Boilers, engines, dynamos, tanks, sausage machines, and a great multitude of other vessels, and also pipes for conveying steam and hot water and cold water, refrigeration, and so forth.

Q. By refrigeration do you mean cooling plant?

A. Yes.

Q. That is, the entire cooling refrigerating plant would be listed under the machinery?

A. Yes, sir.

Q. And equipment, $3,618.54, what would that represent?

A. That would be movable machinery, tools, implements; cover such items as wheelbarrows, trucks, tables, benches, mechanics' tools, knives and grind-stones.

1079 Q. The next item here is autos, $420.43. Was that one or more automobiles?

A. I imagine that would be one. I do not know how many, but I think it would be one.

Q. Furniture, $2,073.75?

A. That would be office furniture and fixtures, such as desks, chairs, typewriters, adding machines.

Q. The next item here is well, $2,285.40. What is that, the book value or the cost of making the well?

A. The cost of digging the well, or boring it.

Q. That would include the pumps and pipes and all of the equipment in connection with the well?

A. No, I think not. That probably would not include machinery.

Q. You think that would come in under the head of machinery?

A. Yes, it would include the casing of the well if there was a casing, but I don't know that it would include any pumps to extract water. That would be classed in machinery.

Q. The next is sewer, $75. That would be the cost of constructing the sewer?

A. Yes, sir.

1080 Q. The next item here is sundries, debits and credits, $146,267.59. What would that include, Mr. Chaplin?

A. That would represent advances that we had made for goods or services which we had contracted for, and we had made advances before the goods or services had arrived or had been completed.

Q. Whom do you mean by "we" in that connection?

A. The company, Moultrie Packing Company.

Q. The next item is construction, $5,047.50. What would that represent, Mr. Chaplin?

A. That would represent construction undertaken but not yet completed.

Q. That is, it would represent money paid on account of construction work?

A. Yes, it would represent money paid for labor or goods actually delivered and incorporated into construction jobs. The sundry debits and credits that I referred to before would represent money paid for goods that had not—or services that had not yet been incorporated into the company's plants for construction.

Q. How would you distinguish between the sundry debits and credits item, and the construction item?

1081 A. The construction item represents work or material that has actually been received on the plant and placed in the job. We have got the goods or services there

on the job and it is complete so far as that part of it is concerned.

Q. Does it represent work or materials placed there or money that had been paid for work or materials?

A. It represents money.

Q. Actually paid out?

A. Actually paid out.

Q. So that if there were materials there which had not been paid for, it would not appear in this $5,047.50; it would not be included in that, is that correct?

A. Not entirely so, particularly so; that is to say, we might buy a bill of lumber and use some of it on the job, and we might have charged it to the job and not paid for it until later on.

Q. All of these items which I have mentioned and which aggregate $614,701.27, according to your understanding, as I gather from your answers, represent properties which passed from the Moultrie Packing Company to Swift & Company under the deed and the bill of sale which were delivered on November 3, 1917, is that correct?

1082 A. That is correct.

Q. We find here a deduction of accounts payable and accrued expenses aggregating $436,186.18. What would that represent to the best of your knowledge and belief?

A. That would represent money for the value of goods which the Moultrie Packing Company had received, but which it still owed to other concerns.

Q. Or money which it might have borrowed?

A. Yes, money which it might have borrowed.

Q. In fact, all the money that it was owing for all things?

A. Yes, sir, its entire liabilities.

Mr. Taylor: I offer in evidence the statement just identified by Mr. Chaplin.

Mr. Horton: We object on the ground it is incompetent and immaterial.

Examiner Sadler: The objection will be noted and the statement will be received as evidence and marked Commission's Exhibit Number 193.

(The document was received in evidence and marked Commission's Exhibit Number 193.)

Q. Mr. Chaplin, do you know of any inventory or list of the personal property which passed under this bill of

1083 sale other than the items which are included in this statement shown on exhibit 193.

A. No, I do not know of any list. There are some items which I know we could not possibly produce a list on.

Q. Do you know of any place in which a list of those articles of personal property could be secured, other than at Moultrie?

A. No, I do not.

Q. To the best of your knowledge, information and belief, is there any such list as that here in Chicago?

A. No, I am sure that there is no complete list of these assets.

Q. What is this paper which I now hand you, Mr. Chaplin?

A. It is a statement of the values transferred on the bill of sale and deed between the Andalusia Packing Company and Swift & Company.

Q. The first item on this statement is cash, $16,782.56. What does that represent?

A. Money in banks or money in the office.

Q. Money in banks standing to the credit—

A. Standing to the credit of the Andalusia Packing Company.

Q. The next, inventory, $504,464.90, what does that 1084 represent?

A. Meat, by-products and supplies.

Q. Would you be able to apportion that between the meats and other assets such as supplies, any more accurately in this case than in the Moultrie Packing Company?

A. No. It is possible that we have that information in the office. It is very possible I could dig that out. I am not sure about it. The item of supplies is relatively quite small.

Q. The item accounts receivable, $24,477.02, what does that represent?

A. That represents debts due to the Andalusia Packing Company by customers to whom they had sold meat and by-products.

Q. That is, debts due at the time of the transfer on March 30, 1918?

A. Yes, sir.

Q. Deferred expenses, $4,757.96, represents expenditures made—

A. For items of expense covering future periods, such expenses as taxes and insurance.

Q. The same as you explained in connection with the Moultrie Packing Company?

A. The same.

1085 Q. The next item is designated as H. W. and H., $2,000?

A. Horses, wagons and harness.

Q. And the next is O. F. and F, $2,781.77?

A. That is office, furniture and fixtures—desks, chairs, typewriters, safes and so forth.

Q. And the next is land, $2,650—what does that represent?

A. The book value of the plant—the book value of the land on which the plant is located.

Q. Does it represent the book value of March 30, 1918? or the amount that had been paid by the Moultrie Packing Company for the real estate?

A. That would be the book value as of that date, March 30th.

Q. Item of buildings, $108,453.31, what would that represent?

A. That is the book value of the buildings as of the date of the transfer.

Q. We have here equipment, $82,096.31?

A. That represents the fixed and movable machinery and equipment of the plant.

Q. I observe that we have no item of machinery as in the Moultrie case. Would it be fair to state the equipment includes both items that are included under the head of

1086 equipment and machinery in the Moultrie statement?

A. Yes, it includes both items.

Q. I have here an item of depreciation—$3,120. Can you state what that represents?

A. That represents a percentage of the investment which is charged against operations, and is credited against the cost of the buildings and equipment for the purpose of taking care of the wear and tear.

Q. That was an estimate made as of the 30th day of March, 1918, I assume?

A. No, that was the amount which had been accumulated on the books up to that time.

Q. That is, the amount of depreciation?

A. Yes, sir.

Q. The next item is construction, $141,890. What does that represent?

A. That represents construction work which has been begun but has not yet been finished.

Q. That is, on March 30, 1918, had not been finished?
A. Had not been finished at that time.
Q. This gives a total of $746,762.73. Does that amount represent the total value of the assets which passed
1087 from the Andalusia Packing Company on March 30, 1918, to Swift & Company?
A. Yes, sir.
Q. Under liabilities the statement shows accounts and bills payable, $489,968.74. What does that represent?
A. That represents the liabilities of the Andalusia Packing Company for borrowed money and debts due to others.
Q. And the next item is accrued charges, $276.85. What does that represent?
A. That represents certain expenses which had been charged against the operations, but for which payment had not yet been made.
Q. I take it, it is fair to assume that these two items, accounts and bills payable and accrued charges, represented the total liabilities of the Andalusia Packing Company on March 30, 1918, is that correct?
A. Yes, sir; that is correct, except of course, its liability to its shareholders.
Q. Yes, certainly, stock liability, you mean?
A. Yes, sir.
Q. These assets, the aggregate value of which is $746,-762.73, I undertsand, represent the total value of
1088 the real and personal property which was transferred by the Andalusia Packing Company to Swift & Company on March 30, 1918; is that correct?
A. That is correct; yes, sir.
Mr. Taylor: I offer in evidence the statement just identified by Mr. Chaplin.
Mr. Horton: Objected to on the ground it is incompetent, immaterial, and not pertinent to the issues in this case.
Examiner Sadler: The objections will be noted and the statement will be received and marked Commission's Exhibit Number 194.
(The document was received in evidence and marked Commision's Exhibit Number 194.)
Mr. Taylor: That is all.

Cross-Examination by Mr. Horton.

Q. Mr. Chaplin, referring to the Moultrie Packing Company statement, the sundry debit and credit item, is it probable that that item includes some construction work?

A. Yes, sir; it is very likely that it includes considerable payments that we had made to contractors in connection with the new building that were working on at
1089 that time.

Q. At that time you were enlarging the plant?

A. Yes, sir.

Q. With reference to the inventory, what was the character of the years 1917 and 1918 in the packing business?

Mr. Taylor: That is objected to, Mr. Examiner, as not proper cross examination of this witness.

Examiner Sadler: The objection will be sustained.

Q. Referring to the inventory that was shown on the statement of the Moultrie Packing Company, would there be a heavy inventory or a light inventory at that time of year?

A. That ought to be the light time of the year.

Q. November 3, 1917?

A. Yes, sir.

Q. And with reference to the statement of the Andalusia Packing Company, inventory, at the time that was made out, would that be light or heavy?

A. That would be a heavy time of the year.

Q. Does the inventory of a packing house depend upon the season of the year as to whether it is light or heavy?

A. It does.

Q. How do the seasons run with particular reference
1090 to the southern plants?

A. It is heavier in the fall and the early winter, towards the first of the year, than it is earlier in the season. The low point is usually about the middle of November.

Q. It is heavier up to what period?

A. It increases into the spring and early summer.

Q. Would the market value of the products have anything to do with the amount shown on these two inventories?

A. Yes, it would have a marked effect if the values of material—

Q. What was the value of the years 1917 and 1918 as compared to other years in the packing house business?

Mr. Taylor: That is objected to as not proper cross examination of this witness and has no relation to the direct evidence.

Mr. Horton: I think Mr. Examiner, that that is explanatory of these two inventory items.

Mr. Taylor: No, I don't think it is, and even if it were I think it is not a proper way to show values at this and at other times at which you desire to compare these statements. It is not competent evidence, the values at either this time or other times.

1091 Examiner Sadler: The objection will be noted.

A. Prior years, before that time?

Q. Yes, prior and subsequent?

A. They were considerably higher than prior years, but somewhat lower than 1919, and I should say higher than 1921 and 1920.

Q. Now, in a general way how did the price of the product compare on March 30, 1918, with the price of the same product on November 3, 1917?

Mr. Taylor: That is objected to as not proper cross examination, incompetent, irrelevant and immaterial.

Examiner Sadler: The objection will be sustained.

Q. What was the general trend—the general price trend on packing house products during the years 1917 and 1918?

Mr. Taylor: That is objected to as not proper cross examination and incompetent. This witness is not introduced as an expert on prices.

Examiner Sadler: The objection will be sustained.

Mr. Horton: That is all, I think.

Examiner Sadler: Any other re-direct examination?

Mr. Taylor: No, I think not.

Mr. Horton: Just one other question, please.

1092 Q. I believe you said the prices in 1917 were higher than in previous years, and not so high as in 1919 and 1920. I will ask you if prices in 1919 and 1920 were not the highest prices known in the history of the business?

Mr. Taylor: I object to that as not proper cross examination. The answer upon which the question is based was given over my objection. I now object to elaborating upon this answer as improper cross examination, incompetent, irrelevant and immaterial, and as before stated, the witness was not produced here as an expert, has not been so qualified as an expert and there is no reason why counsel for respondent should be permitted to use him as an expert on prices on cross examination without first so qualifying him as his own witness.

Mr. Horton: You have no doubt of the witness' qualifications to answer the question, have you, Mr. Taylor?

Mr. Taylor: I do not know anything about that, Mr. Horton.

Examiner Sadler: The objection will be sustained.

Mr. Taylor: I now move to strike out the former answers of the witness which were made over my objection, and upon which counsel for the respondent has based the last question which he asked.

1093 Examiner Sadler: The motion to strike will be noted.

Mr. Horton: That is all.

Examiner Sadler: The witness will be excused.

(Witness excused)

1094 Mr. Taylor: Counsel for the respondent has produced copy of the report of Mr. H. C. Carr, dated May 21, 1917, but upon reading it, it appears to be of such a character that it throws very little if any light upon the issues in the case, and therefore I am not offering it, anticipating that counsel would properly object to its admission as irrelevant and immaterial in this instance.

Since Mr. J. M. Chaplin left the witness stand yesterday, he has furnished to counsel a statement of the portion of the total amount appearing opposite the entry: "inventory" in the statements of the Moultrie Packing Company and the Andalusia Packing Company respectively, which represented supplies as distinguished from meats. In the case of the Moultrie Packing Company the amount shown on the memorandum furnished by Mr. Chaplin is $12,612.48. In the case of the Andalusia Packing Company, the amount shown as representing supplies is $20,004.50.

Mr. Examiner, reserving the right to introduce schedules of personal property which passed under the bills of sale executed by the Moultrie Packing Company and the Andalusia Packing Company respectively, to Swift & Company, I will now announce that I rest the Commission's case.

1095 Mr. Horton: Mr. Examiner, at the close of the Commission's case I wish to move to dismiss the respective complaints in Docket Number 453 for the following reasons:

1. Respondent repeats and renews its motions to dismiss each and all of them heretofore filed, and adopt said motions as before fully set forth at this point.

2. The evidence does not show that the respondent violated Section 5 of an Act to Create a Federal Trade Commis-

sion, define its powers and duties and for other purposes, Approved September 26, 1914, usually referred to as the Federal Trade Commission Act, nor section 7 of an Act supplementing existing laws against unlawful restraint and monopolies, and for other purposes, approved October 15, 1914, usually referred to as the Clayton Act; nor any other Act or Acts, statute or statutes.

3. The evidence shows that the Commission is without jurisdiction to enter any order, complaint, or other process in the respective complaints.

4. The evidence shows that the respondent Swift & Company and the Andalusia Packing Company and the Moultrie Packing Company, either or any of them, are not now and were not at any of the times mentioned in said evidence, 1096 engaged in interstate commerce.

5. The evidence shows that the respondent Swift & Company, the Andalusia Packing Company and the Moultrie Packing Company, either or any of them, were not engaged in commerce as that word is defined by the Federal Trade Commission Act or the Clayton Act.

6. The evidence shows that the several Acts, circumstances and transactions which the Commission has attempted to prove are intrastate transactions, and therefore the Commission is without jurisdiction.

Examiner Sadler: The motion will be denied on each and every count, and exception.

Mr. Horton: I would like to file a written motion also.

Examiner Sadler: Yes, I would like to have it in the record.

And thereupon at 12:30 o'clock P. M. an adjournment was taken to Wednesday, June 8, 1921, at ten o'clock A. M., at the rooms of the Federal Trade Commission, Room 1114 No. 14 West Washington Street, Chicago, Ill.

1097 Chicago, Ill., June 8, 1921,
Ten o'clock A. M.

Met pursuant to adjournment.

Present: Parties as before.

Examiner Sadler: The hearing will come to order.

Mr. Taylor: Mr. Examiner, on May 25th notice was served upon counsel for the Respondent that immediately upon completion of the taking of testimony in chief for the Commission in this proceeding, a motion would be made before the Examiner to proceed at once to taking evidence for the respondent. Mr. Horton has advised counsel for the Commission of the sickness and of the death yesterday of Mr. Sheean's father, and Mr. Horton's consequent inability to confer with Mr. Sheean since receiving his copy of the record in the case, Mr. Sheean having been for some weeks at Galena, Illinois, the late residence of his father; and Mr. Horton and Mr. Veeder accordingly have requested that they have a reasonable length of time, in which to prepare to proceed with the defense of the case.

This matter having been presented to the acting chief counsel, I now consent that an adjournment be taken
1098 until June 22, 1919, at 11 o'clock in the forenoon. In view of the fact that the work to be taken up by counsel for the Commission in this case may take them nearer to the southern cities in which counsel for the respondents have expressed their intention of taking certain testimony in defense, I suggest that the place for the hearing be left to be designated by the Examiner on about the 15th of this month.

Examiner Sadler: Adjourned to June 22, 1921, at 11 a. m., the place to be later designated.

Whereupon, at 10:30 o'clock A. M. June 8th, 1921, an adjournment was taken to June 22, 1921, at eleven o'clock A. M. at a place to be hereafter designated by the Examiner.

1099 UNITED STATES OF AMERICA, Filed Sep 1923.

BEFORE FEDERAL TRADE COMMISSION: ss.

Federal Trade Commission
vs.
Swift & Company.
} Docket No. 453.

I, Otis B. Johnson, Secretary of the Federal Trade Commission, do hereby certify that hereunto annexed is a true and correct transcript of the testimony taken in the above entitled case as stipulated by and between attorneys for the respective parties.

That this transcript is certified to the United States Circuit Court of Appeals for the Seventh Circuit, by reason of the filing in the said Court of a petition for review of the Order entered by said Federal Trade Commission under date of August 3, 1922.

OTIS B. JOHNSON,
OTIS B. JOHNSON,
(Seal) *Secretary, Federal Trade Commission.*

(Endorsed) Filed Sep 24 1923 Edward M. Holloway Clerk

1101 BEFORE THE FEDERAL TRADE COMMISSION.

Federal Trade Commission, *Complainant*
vs.
Swift & Company, *Respondent*
} Docket No. 453.

Atlanta, Georgia, June 22, 1921.

11:00 o'clock A. M.

Before: Clarence T. Sadler, Examiner.

Hearing resumed pursuant to adjournment at Chicago, Illinois.

Appearances:

Mr. A. H. Taylor and Mr. Everett F. Haycraft, appearing for the Federal Trade Commission.

Messrs. A. H. Veeder, Henry Veeder, James M. Sheean and Frank L. Horton, Chicago, Illinois, appearing for the respondent.

1102 M. A. BAKE called as a witness for respondent being first duly sworn, testified in substance as follows (pp. 1943 to 2052):

Direct Examination.

He is treasurer of the Purity Market Company, and lives in Atlanta, Georgia. He held that position for the last two years. Previously he had been for one year Branch Manager for Wilson & Company, located in Augusta and Columbus, Georgia and Columbia, South Carolina. Before that he was Manager for the Atlanta Hotel Supply Company here in Atlanta. That company handled all classes of meats. He has been in the meat business since he was twelve years old.

The Purity Market Company is a corporation and has thirty-seven retail meat markets in Atlanta, six outside of Atlanta, forty-three in all; two in Columbus, Georgia, one in College Park, Georgia, one in Marietta, Georgia, one in Griffin, Georgia, and one in Decatur, Georgia. These markets do not handle the Georgia pork, or soft and oily pork, except

where they are caught short on Western pork and have to buy it just for emergencies. Their trade do not want it. They would not buy it at a cheaper price than Western pork because they have never been able to give satisfaction to their trade. They find the soft and oily pork is handled by the cheaper class of markets which cater more or less to the negro trade, a cheaper class trade, that wants more quantity than they do quality.

1103 He is familiar with competitive conditions now and also before and after July 1, 1917. He noticed no particular change in competitive conditions on or about July 1, 1917, November 3, 1917, or March 30, 1918. Competition in this market has increased since 1917. There are more people now in this field—more people selling packing house products. The following companies have come into this territory since June and July, 1917, and are now selling meat here:

Independent Packing Company of St. Louis or East St. Louis.

East Side Packing Company of St. Louis.

George A. Hormel of Austin, Minn.

Evansville Packing Company of Evansville, Indiana have established branch houses.

Cincinnati Abattoir Company have come in in the last year.

John Morrell & Company of Ottumwa have come in in the last year.

The following companies are engaged in the wholesale meat business here in Atlanta, handling beef, pork and other packing house products, and have been so engaged since 1915 and previous to that time:

Swift & Company.

Cudahy Packing Company.

Wilson & Company and its predecessor, the Schwartzchild & Sulzberger Company.

all have branch houses with full facilities for handling the complete line.

The White Provision Company has a small modern packing plant established since 1907, and has been continuously engaged in the packing business here in Atlanta.

1104 J. P. Simpson, Cohen Brothers; Suptles & Company are local slaughterers and have been established for at least the past five years.

Cudahy Brothers of Milwaukee, Wisconsin, packers, are represented in this market by Mitchell Brothers.

Ferris & Company of New York—He doesn't know who represents them now.

Saunders Packing Company of Cincinnati, represented by a broker.

Kingan & Company of Indianapolis, packers, have a branch house here and handle the full line. They came into this market about 1907.

The Independent Packing Company of St. Louis are represented by a broker. They ship mixed carload lots here. They handle smoked meats, lard and fresh pork. They have been represented here for three years, to his knowledge.

Krey Packing Company handle smoked meats, lard and fresh pork, and have been represented in this market for eight or nine years.

The Houston Packing Company were represented by W. S. Rogers in this market. He doesn't know about the present time.

Hateley Brothers of Chicago did business here in carload lots. He doesn't know about the present time.

Evansville Packing Company has a branch established here. They came in about a year ago, and handle the full line.

1105 John Morrell & Company of Ottumwa, Iowa, handled the full line except carcass meats.

All of these companies have salesmen canvassing the trade around Atlanta. There is a crowd of them in here every day.

That he believes the Atlanta market is more competitive now—has more competition now, than they had the past year; there appears to be more people represented here, as to the amount of business they were doing he could not say.

During 1916, 1917, 1918 and 1919 he was familiar with this market with the exception of 1918, at which time he was at different branches around the country for Wilson & Company.

Speaking of the territory around about here, what is known as the southeast territory, they had an exceptional year in 1918 and part of 1919. At that time it was not a question of being able to sell, but a question of being able to get it. Since 1919 there has been a little slump in conditions.

In 1917, 1918 and 1919 the influx of people into Atlanta and other camp towns made an increased demand for packing house products.

In 1918 and 1919 he was in Atlanta, Columbus and Macon and Augusta, Georgia, Jacksonville, Florida, and Columbia and Spartanburg, South Carolina. Conditions in each of

these markets were the same. The number of people
1106 brought into those towns by war conditions, not only soldiers, but the civilians, increased the demand for all classes of packing house products. There were about 80,000 men in Camp Gordon here at Atlanta, 40,000 at Macon, 30,000 at Columbia, 40,000 at Jacksonville, 25,000 at Columbus, 25,000 at Spartanburg, and 30,000 at Augusta, when he was at those points.

1107 Atlanta, Georgia,
10:00 o'clock A. M. Thursday,
June 23, 1921.

F. P. RAUSCHENBERG, being first duly sworn, testified (pages 2053-2200):

Direct Examination.

He has been District Superintendent for Armour & Company for the past three and a half years. He has supervision over all of Georgia except Savannah and Valdosta, all of Alabama except Mobile. He has supervision over one house in South Carolina, two houses in North Carolina and one house in Tennessee.

Under his jurisdiction are the following towns: Albany, Georgia, Athens, Georgia, Anniston, Alabama, Atlanta, Georgia, Augusta, Georgia, Birmingham, Alabama, Bessemer, Alabama, Chattanooga, Tennessee, Columbus, Georgia, Columbia, South Carolina, Huntsville, Alabama, Macon, Georgia, Montgomery, Alabama, Selma, Alabama, Wilmington, North Carolina, Newbern, North Carolina, Cordele, Georgia, Florence, Alabama, and Huntsville, Ala.

From each of these cities the adjacent territory is worked by salesmen and otherwise.

Before being District Manager, he was Branch House Manages in Atlanta from 1915 to 1918, approximately two and one half years. Before that he was Manager for Armour & Company at Huntsville, Alabama for six years before com-
1108 ing to Atlanta. Before that he was a salesman for one year.

Armour & Company is a packer and distributes the full line of meat and provisions. Armour & Company sells Western

and Northern pork, also the Southern pork or soft and oily pork, the latter since 1916.

He is familiar with the packing house business generally and with trade conditions, particularly in Atlanta and throughout the territory. In 1917 there were approximately 250 to 300 retail markets that sold fresh meats, that is, would cut up fresh meat over the counter. There were approximately 750 retail markets and grocery stores, but all of the latter did not handle fresh meat. There were approximately 450 to 500 in 1917. In his opinion, based upon his experience, not over five per cent of the Atlanta markets would purchase soft and oily pork in 1917. That would be their experience in calling on the trade. The others would not have it at any price. He does not recall any dealers that would handle it exclusively. He does recall one dealer in town that would buy more of it than all the rest of them put together. That was their experience, but to the best of his knowledge he did not use it exclusively by any means. That was Mr. Gatlin with the Sanitary Market Company. They had four or five markets in town. Of the five per cent using the Southern pork, they would use probably forty or fifty per cent of that and the balance of firm Western pork. Armour & Co. 1109 have been selling the soft and oily pork since 1916.

Armour & Company built a small packing plant at Jacksonville and started to ship soft and oily pork. It was awful hard for them to get rid of but they insisted on his branches taking some. They had little success with it. In the Atlanta market, the majority of the trade did not want it. It is hard to cut because it is oily and it does not stand up. It is hard to cut into pork chops. The butchers object to it because it shrinks and will not hold up long in their ice box. It will not keep as well as Western pork. It does not give the satisfaction to the consuming trade. If they offered it for three or four or five cents a pound under Western pork they could create very little demand for it. Armour & Co. having a plant at Jacksonville naturally insisted on his branches selling some of it as they needed so much distribution to keep the plant in operation. They went out and worked the trade in a very conscientious manner and continued to work it that way, but with the exception of a small percentage of dealers, got very little repeat business. He recalls that this man Gatlin with the Sanitary Market Company was a very good customer for it because he wanted a cheap product to sell. By repeat orders he means that when they got a merchant to try

one shipment of soft and oily pork, they would go back to
him for the second order. They found a number of
1110 them that refused to buy the second order on the ground
that the product was not satisfactory and that they
didn't care to drive their trade away.

In the years 1916, 1917, and compared to the total volume of pork sold in this market, he would say that to the best of his knowledge not over eight or ten per cent of the fresh pork would be Southern pork—on cured products not over one and one half per cent. In 1918 he believed it would not run over ten per cent on fresh pork and not over one and one half to two per cent on dry salt pork. Since that time the volume has declined. The latter part of 1915 he found very little soft pork on the market at all.

Around 1918 the State of Georgia was supposed to rank seventh or eighth in the production of hogs. That naturally made more local pork being placed on the market; later there was less hogs. In 1915, 1916 and 1917 cotton was cheap, and the farmers paid more attention to raising hogs. Later, when the war came on, cotton brought better prices, and the Southern farmers turned their attention to cotton raising, and less attention to hogs. In 1914 and 1915 the World War broke out and export shipments stopped, and cotton took a big slump. It was then the "buy a bale" movement started all over the country.

The population of Atlanta is around 200,000, Atlanta and suburbs around 260,000. The radius that they would serve out of Atlanta, he would say contains from four hundred to
four hundred and fifty thousand people.

1111 Witness then recited names of wholesale meat dealers and packers doing business in that territory as given above by witness Bake.

They sent out salesmen to call on the trade, with prices on our products that would mean a fair margin or a small margin of profit to the branch house, keeping in mind that they must have a sufficient volume of business, with their margins of profit being small, to operate the house. They are crowding the salesmen hard for business, and if some competitor has a lower price, they meet the situation if it is possible for them to do so. At times they had to let a lot of business go by. Swift and Company and other competitors are at times selling goods under Armour & Co. cost. They must stay very close to the trade and close to the salesmen and find out just what they are up against in the market. They do business just like they do in any line. It is a business that

you have to be on your toes every minute or the other fellow will take the bulk away from you.

Leaving out of consideration for a moment the firms of Swift & Company, Morris & Company, Cudahy Packing Company and Wilson & Company since 1915, he has found competition very keen with other concerns on this market—such concerns as Cincinnati Abattoir, Krey Packing Company, Independent Packing Company and various others that were mentioned, making low prices and underselling us the same as other packers that have branch houses. They have
1112 done a great deal of business in this market. These concerns bring in peddler cars, and he sometimes thinks because they have no houses that they are not doing so much, but when he investigates and finds out how much stuff is going out over the route, he finds a great deal more of these competitors' products than he does of Armours. It makes very keen competition all the way through.

If Swift & Company, Armour & Company, Morris & Company, Wilson & Company and the Cudahy Packing Company were eliminated from this market entirely, there are so many competitors here that he would say there would be very little difference noted on competitor's prices. Everybody is fighting hard for business, and there is not enough business to be had for everybody to make a decent showing and therefore competition is very keen. If quite a few of them closed up, he believes competition would still be very keen.

Witness is handed a map marked "Respondent's Exhibit B-1" for identification, and identifies packing plants at the following points:

Jacksonville, Florida.
Moultrie, Georgia.
Tifton, Georgia.
Macon, Georgia.
Atlanta, Georgia.
Another one at Atlanta, Ga.
Andalusia, Alabama.
Birmingham, Alabama.
Another one at Birmingham, Ala.
Chipley, Florida.
Chattanooga, Tennessee.
Nashville, Tennessee.
Another one at Nashville, Tenn.
1113 Augusta, Georgia.
Savannah, Georgia.

Orangeburg, South Carolina.
Columbia, South Carolina.
Wilmington, North Carolina.
Cincinnati, Ohio.
Louisville, Kentucky.
Another one at Louisville, Ky.
Mobile, Ala.
New Orleans, La.
Evansville, Indiana.
Natchez, Miss.
Statesboro, Georgia.

Armour & Co. had a great deal of trouble introducing the oily products, and with very little success. The natural trend of the trade is toward good firm Western products in both fresh and cured pork, regardless of any inducement made on prices. He would find the products acceptable by only a very few customers; occasionally they find a customer who handled the Southern products would say they were fairly satisfactory. The competitors who were handling soft and oily products certainly did not interfere with Armour's business in any way. He never considered it serious competition.

Live Stock is the packer's raw material. He gets it from the farms. There is no reason that why a packer should prefer to get raw material from one section rather than another. He knows of no reason why a packer would not as soon handle hogs from the South as hogs from the North, if he can handle them profitably. It is the function of the packer to give the trade what they demand.

Meat is a perishable product and must be handled quickly and under proper refrigeration or there would be heavy
1114 losses, due to spoilage. It is not practical for meats to be carried over from season to season because if they stay in the freezer a certain length of time they are dark and do not bring the prices equal to the prices of fresh products or of fresh frozen products. Also, it is expensive to operate a freezer at a sufficiently low temperature to carry the products, which adds to the cost. If Armour has a supply of meat on hand and it does not sell at the price asked for it, they cut the price and keep on cutting the price until it does sell. It must be moved within a reasonable time. They must move it fast.

Cross-Examination.

That the branch houses of Armour & Co. made daily and weekly reports showing the volume of Jeaksonville pork sold during 1917; that these reports were destroyed every 30 days; that after the daily and weekly reports were made and destroyed there would be no way to know how much of
1115 the business was soft pork.

When asked by Counsel for the Commission: "Then I take it that your testimony this morning about the volume of oily or soft pork sold for back—now back in 1916-1917—was entirely from your memory of conditions at that time rather than looking up any reports on it?" Witness replied, "I could not look it up in the reports because I haven't any reports on it. My memory on that would be that the Jacksonville plant—that they insisted on his—they insisted on us taking that and handling it and the price that we could get out of it was not satisfactory and then they would insist on us taking more."

That Armour & Co. purchased a packing plant at Tifton, Ga. in July 1918. In his statement that there were 250 to 300 fresh meat markets in Atlanta in 1917 and probably between 400 and 500 markets which handled some kind of meats, he estimated the number of markets in town without having any records to base it on only the number of salesmen he had out; that he has nothing in the way of records now which would show the number of customers that he called on during the year 1917.

That he would estimate that in Atlanta and Atlanta territory in 1917 approximately 200,000 pounds of fresh pork products were sold per week; that 125,000 to 150,000 pounds of smoked products were sold per week and 300,000 to 350,000 pounds of dry salt meat sold per week, and 150,000 to
1116 200,000 pounds of lard sold per week; that of this amount about 85% to 90% of the fresh pork would be sold in Atlanta and suburbs and about 40% of the dry salt meats would be sold in the city and the other 60 or 70% in the country and about 60% of the smoked meats would be sold in the city and 40% in the country, and about 75% of the lard sold in the city proper and suburbs and 25% in the country. That the country territory referred to would be a radius of 40 miles around Atlanta.

That of the fresh pork sold in Atlanta and suburbs in 1917, about 60% was sold by the larger packers including Ar-

mour, Morris, Wilson, Swift and Cudahy, and 40% by the smaller packers. About the same percentage on smoked meats; that about 50% of the dry salt meats would be sold by the five larger packers and 50% by the smaller packers and about 40% of the lard sold in that territory would be sold by the five larger packers.

That he has heard that the Birmingham Packing Co. shipped in stuff and sold in the Atlanta market to a packer but not to same class of trade that he was selling; that he has heard of the Alabama Packing Co. selling some stuff to someone on the street but that he never checked up on the product; that the Chipley Packing Co. shipped some stuff into Atlanta through a broker or a salesman; that he never saw any of J. H. Allison, Chattanooga, stuff in Atlanta;
1117 that he has seen some of Powers Packing Co. products handling through a broker; has been as much as two cars a week of this company's product; that the Newhoff Packing Co., Nashville, Tenn., made some shipments through brokers; that the Newhoff Company had been shipping into Atlanta for a number of years but that Powers had not been coming in so long; that he has never seen any Augusta Abattoir products in Atlanta; that he has seen some of the Orangeburg, S. C. Packing Co. products sold in Atlanta through brokers or a salaried arrangement, about a car a week in 1917-1918; that he has not seen anything from the Columbia Abattoir, Columbia, S. C. in Atlanta; that he has not seen any products of the Cape Fear Packing Co., Wilmington, N. C. come into Atlanta; that he has seen a great deal of stuff coming in from the Cincinnati Abattoir into Atlanta, as much as two or three cars a week, other times a car a week; that he has known of the Louisville Packing Co. sending in as much as two cars a week; that he has known of the Vissman Packing Co. shipping in one or two cars a week, possibly 3 cars but the Vissman Packing Co. has been shipping more recently than five years back; that the Evansville Packing Co. has been coming into Atlanta for a number of years and established a branch house about a year ago they brought in quite a few cars a week before that—1, 2, 3 cars; that the Crescent Packing Co. of New Orleans had sent some beef into Atlanta market about three years ago—very little
1118 of it, but he never saw any products from the Mobile Packing Co. Mobile, Ala. shipped into Atlanta; that he has seen some products from the Natchez Packing Co., Natchez, Miss. in the Atlanta market handled by a broker

or by Wilson & Co. a few years ago; that he has seen some products from the Statesboro Packing Co. in the Atlanta market. Tifton Packing Co. shipped some products into Atlanta market and also the Macon Packing Co.; that the Moultrie and Andalusia Packing Companies also shipped products into the Atlanta market in 1916-1917 but he could not estimate how much these two plants shipped into the Atlanta market.

That he is not a cotton broker and has no recollection of the exact cost of cotton in 1918-1919; that he got his information about the price of cotton from cotton buyers.

Respondent's Exhibit No. 1, being document No. 209, issued by the Government Printing Office, and is a pamphlet entitled "Southern Live Stock Prices"—Report issued by the Federal Trade Commission, offered by respondent and received in evidence.

Redirect Examination.

Competition is very keen in Atlanta on account of there being a lot of dealers in meats and provisions for a market like Atlanta.

If the firms of Swift & Company, Armour & Company, Morris & Company, Wilson & Company and the Cudahy Packing Company were taken out of this market entirely within a short space of time, he thinks there would be just as much meat on this market without them as there was with them, the way the other packers send it in here.

1119 Meat is a mobile commodity. It is transferable from one part of the country to another, and as each packer wants to merchandise to the best advantage, they ship it to the market that will take it.

Recross Examination.

In 1917 Armour & Company had eight salesmen. They have ten now (June, 1921). That he thinks that Swift & Co. was the largest dealer in this market, have more salesmen and did a larger business; that the figures possibly might not bear him out and they might be doing a great deal more than he thought they were.

When he came to Atlanta in 1915 the White Provision Company was working the town and selling soft and oily pork.

1120

Atlanta, Georgia.
10:00 o'clock, A. M.
June 24, 1921.

R. M. REECE, called as witness on behalf of Respondent, after being duly sworn, testified as follows (pp. 2201-2209):

He is manager of the Meat Department at the Fulton market in Atlanta, Georgia and have been since October 10th last year (1920). Before that he worked for Chelena & Cefalu, 17 East Alabama Street, as manager of that meat market since 1910. Both markets handled a full line of meat. The Fulton market does not handle any Southern pork, what is known as soft and oily pork, except in the Winter—a very little of it more to meet competition than anything else. You have to handle it in good cold weather to get away with it, that is, when the weather is freezing—and in dry weather. In wet weather it won't stand up. It turns black and gets soft, and the lard will come out of it, when it is wet weather and the temperature is above freezing. It is only for short periods of the year that the weather is freezing, even in Winter in Atlanta. That Southern pork, especially this peanut—of course you can get some that is a little firm but you take the average pork you get it is soft when the weather is farm it gets sticky and slimy; when you bring it out and let it stay on the counter a little while
1121 it turns dark and gets to running water—lots of juice in the soft pork and the people don't buy it but you take the pork if you are running sales, selling it cheap, you can sell a lot of it to the cheaper class of trade. If you are selling for 35c a pound and take the soft pork and put it on sale for 25 or 30c a pound, lots of people will go and buy it, but to handle it profitably it won't hold up. He has never used it on that account. Customers never come in and especially order soft pork or specify it. If he sends it out to our customers, he very often have them send it back. As compared with Western pork from a profitable standpoint, he would say that the Southern pork must be from 4 to 8c per pound difference—the way he figures, to put the Western pork and the Southern pork on the same profit basis, you would have to buy the Southern pork from 4 to 8c per pound

under the Western. You cannot make sausage out of Southern pork altogether. You have got to get at least forty per cent Western trimmings to mix with the soft trimmings, because they are too soft. If you used all Southern trimmings you would have to have a jug to put it in.

His testimony is the result of eleven years' experience handling meats in Atlanta. He buys from Swift & Company, Morris & Company, Armour & Company, Geo.
1122 Hormell, Cudahy Packing Company, Wilson & Company, Mr. Stanaland, Mitchell Brothers, East Side Packing Company, Arnold—Chicago; in fact, from nearly all the packers. Price and quality determine where they buy their meats. Sometimes good quality is hard to get, but very seldom. He has very little trouble getting meat in this market.

1123 R. V. BERGEN, called as a witness on behalf of Respondent, after being first duly sworn, testified in substance as follows, pp. 2210-2218, 2505-2508:

That he has ascertained from the City records that in July 1917 there were 452 retail meat markets in the City of Atlanta.

1124 F. A. MITCHELL called by the respondent as a witness at Atlanta, Georgia, on June 24, 1921, after having been first duly sworn, testified in substance as follows (pp. 2218-2266):

That he is engaged in the brokerage business and the wholesale meat business since December, 1915, in the firm of Mitchell Bros., a partnership consisting of himself and brother; that they sell everything that is handled in the packing house line and have ever since they started in business.

That he represents the Krey Packing Company of St. Louis and that they sold for several others besides Krey, namely: Cudahy Bros., Cudahy, Wisconsin; Hately Bros., Chicago, Illinois; Greenwald Packing Company, Baltimore, Md.; and Higgins Bros., Omaha, Nebraska; that they solicited trade in the Atlanta vicinity in the retail market and that they have always had plenty of competitors in At-

lanta; that he thinks competition is stronger now than it has been at any time since he has been in business in Atlanta.

(Witness names a list of competitors which is practically the same as that furnished by witness Bake.)

That all the firms named have representatives calling upon the trade here in Atlanta endeavoring to sell their products, both pork and beef; that by looking at the products
1125 he can tell the difference between southern and western pork, and between southern and western beef; that is by the appearance of the product.

That based upon his observation in calling upon the trade he would say that a very small percentage of the dealers handle southern pork exclusively, and of course that was strictly among the cheaper class of markets; that he does not think there was five to ten per cent of them that would handle it exclusively; that he does not know what percentage handle seventy-five per cent of southern pork; that there is a good many of them that would handle loins or shoulders or something like that but they would not carry a full line all the time; that may be they would get in a little for Saturday trade when the weather was cold or something like that.

That in 1917 he would say, taking into consideration the amount the White Provision Company sold that not over twenty to twenty-five per cent of the pork used in the Atlanta market was southern pork; that is also taking into consideration the number of hogs slaughtered by the local slaughterers; that he noticed no difference in competition between July 1917, November 1917, and March 1918; that competition
1126 has not lessened any in Atlanta since he has been in business but that it has been increasing.

Cross-Examination.

That it was his observation that the bulk of soft and oily pork in the Atlanta market prior to September, 1917, was sold by the brokers representing the Moultrie Packing Company and the Andalusia Packing Company; that the White Provision Company never made a specialty of soft and oily pork; that the list of concerns named by him engaged in Atlanta in the wholesale meat business back in 1917 are handling western pork.

That he has been in the meat business about twelve years; that prior to December 1915 he worked for the National

Packing Company until it was taken over by Swift & Company; then he worked for Swift & Company; that he was with the Atlanta house of the National Packing Company when it was dissolved in 1912 and remained with Swift & Company until December 1915.

That to the best of his knowledge Swift & Company was handling soft and oily pork down to the present time; that there was never very much of that oily pork sold in the Summer time, and that he thought they were not selling very much of it now; there was no demand for it, that is,
1127 in June. That he thought they were selling less of it in June this year than in June last year, because competition was keener now than it was a year ago, and also that on fresh pork the trade was getting away from the soft and oily pork; that the trade didn't seem to like Georgia pork; that he observed that a lot of people who did handle it were getting away from it; that the reason the trade was getting away from it was not due to the fact that it had not been pushed by the people who were selling it at wholesale on the Atlanta market or that those people had been endeavoring to sell it on other markets instead of there. That he had a chance to buy pork last Winter when pork was scarce, at 8c a pound under the market; that he went and looked at them and found they were Armour's Jacksonville pork loins; that he added, he thought, about a cent a pound and endeavored to sell those loins to one of the largest concerns in Atlanta and the buyer said he would not have them at any price; that he tried to sell them at other markets and could not. That he had a Georgia account offered to him at one time but did not take it as he never considered it a very good money maker and never felt that he wanted to fool with
1128 that stuff. That he knew in a general way the amount of pork sold in this market by the Tifton Packing Company by Mr. Stanaland; that Stanaland used to have about two cars of pork a week, that is, of mixed packing house products, pork, hams, lard, all that kind of stuff; that it would not average two cars per week throughout the year, as it would not run that much in the Summer. Stanaland did very little business in the Summer months. Stanaland's place of business was right across the railroad from the witness' and he remembered his fresh meat cars used to come in twice a week; that Stanaland was not equipped to handle very much more than that; that Stanaland had a little mule and wagon and that was about the only way he had of de-

livering that stuff so that one could not sell much more than that with the outfit that Stanaland had. That he thought Stanaland's business ran about the same when he handled the Moultrie account, the Tifton account and the Macon account—that there was no special difference in any of them.

Redirect Examination.

That if he was running one of the packing houses, killing hogs, as shown by map marked B-1 for identification, in the States of Georgia, South Carolina, Florida or Alabama, he would not try to market the product on the Atlanta market because he considered Atlanta the keenest competitive
1129 point in the country. That from say 1915 on, during the period of the war, because western stuff was scarce, people would take almost anything they could bring in. Conditions are now altogether different. All the packers seem to have plenty of stuff. Trade is inclined to pay the difference in price and get meat now. That was his experience. That he thought that if those plants could be operated successfully they would be in here now with products trying to sell them. That he was endeavoring to build up as much trade as he could and sell all the goods he could, and that it made no difference to him whether it was Western pork or Southern pork, if there was a profit in it and if he thought he could handle a Southern account profitably he would have done so.

That the following concerns are now engaged in business on this market:

Power Packing Company, Nashville, Tenn.
Arnold Brothers, Chicago.
Vissman Packing Company, Louisville.
Jacob Dold Packing Company, Wichita, Kans.
Newhoff Packing Company, Nashville, Tenn.
Greenwald Packing Company, Baltimore.

That Kingan & Company, he thought, were represented on this market in 1916 or 1917; that he also thought they did not handle fresh meat at that time, but do handle it now.
1130 Witness was shown Respondent's Exhibit B-1 for identification and said that in addition to the towns already named, there were packing houses at the following points:

Waycross, Georgia.
Memphis, Tenn.

1131 L. W. BROWN was called as a witness in behalf of Respondent, and after being first duly sworn, testified in substance as follows: (pp. 2266-2302.)

That he lived in Atlanta and was engaged in the meat business; had been in that business for twenty years and started in Atlanta; had been here all that time with the exception of about eighteen months. In 1914 he was manager for S. & S. Company. The latter part of the year 1914 he went with the Cudahy Packing Company as manager of its Savannah Branch, for a year and a half. That he came back to Atlanta in July 1917 as manager of the local branch of Cudahy Packing Company; that he held this position until March 10, 1920, when he opened a branch for the Evansville Packing Company, and is now manager of that branch. That it was part of his duties to be familiar with the conditions pertaining to the wholesale meat trade in Atlanta.

Witness gave the names of concerns selling meat at wholesale in the Atlanta market and mentioned, in addition to those mentioned by previous witnesses, the following:

Morris & Company
Armour & Company
Bettis, a local slaughterer
S. Saunders Packing Company of New York
Atlanta Butcher's Abattoir Company, a local slaughterer.

In July 1917, in familiarizing himself with trade conditions, it was part of his duties to know what the various markets were buying, whether they handled hard Western hogs or Southern hogs. That from his experience, he would
1132 say ten per cent of the customers of the Cudahy Packing Company handled Southern hogs; that of this ten per cent, quite a few of them handled it spasmodically—they would handle it this week, possibly cut it out for two or three weeks and maybe they would go back to it later. That the Southern pork is inferior to Western pork, and after handling it regularly for a week or a couple of weeks, customers would begin to lose their trade and would have to get on Western pork to get them back. At least one half of the ten per cent above referred to were working under conditions like that. That he found the Southern pork was handled by the cheaper class of markets; the better class of markets handled very little of it. That markets located in the negro sections of the town and the cheap white sections handled

more of it than the better class of markets, also the cut price markets, those fellows that cater to a cheap class of trade. That there is a class of market which tries to draw its trade by advertising, has no regular clientel, but endeavors to induce Tom, Dick and Harry in different sections of the city to buy there. This class of market invariably handles Southern pork. These markets have no regular line of customers.

That he would classify the markets located in what was known as the colored section of the city into two or three classes. There were classes of the colored people who demanded the best, and there were classes that would take nearly anything; just a few; they go for quantity, not quality.

The ones that demanded good stuff would buy Western
1133 pork, and the ones that demanded quantity rather than quality invariably bought Southern pork; that applies on smoked meats as well as fresh meats, applies on salt meats all the way through—on beef also.

Q. How did the people who were selling Southern pork affect your business—I mean the business of the Cudahy Packing Co.?

A. Well they hurt it by—to the extent of our having to reduce prices on Western pork to compete with it, or let them take the business; that is the effect that it had, that is, such customers as are using the Southern pork.

Q. Do you mean by that it was a question of price not of quality?

A. Yes.

(By Mr. Taylor) Q. When was this you were speaking about Mr. Brown?

A. Well that condition has existed more or less all the way through at the present time.

Q. You are not with the Cudahy Packing Co. now are you?

A. No sir, I am not.

Q. When were you talking about, back in 1917 when you were with them?

A. Well when I was with the Cudahy Packing Co. and when I was with Wilson and when I went there with the Evansville Packing Co., conditions there are practically the same, there has been little change in that respect.

1134 Q. (By Mr. Horton.) Is it correct to say or not that the meat products sell on quality?

A. Absolutely.

Q. Isn't it correct to say that if you reduced your price

low enough you can take all the business in this market if you have the goods?

A. Yes sir. Absolutely. I would not say all. There is some of them that would not have the cheap grades.

Q. Well take the larger majority of it?

A. Yes, sir, take the majority of them, prices would influence business.

Q. You would have to take a big loss to do so, though?

A. Oh yes, yes sir.

Q. Now does the Southern pork sell for more or less than the Western pork?

A. Well it invariably sells for less; I suppose there are some few markets that mix it up and get the same price for the Southern pork as they would the Western, when they handle both and mix it together, but as a rule Southern pork does not bring as much as the Western.

Q. Do you mean by that retail markets?

A. Yes, retail or wholesale. Wholesalers cannot get as much for it as they get for Western pork.

Q. An experienced meat man can tell the difference can he not.

A. Yes, sir, doesn't have to have very much experience.

1135 Q. No chance to deceive anybody?

A. Absolutely none, with any one that has any knowledge at all of meat.

There are more competitors in this market now than there were in 1917. Competition now is decidedly keener. There are a larger number of competitors represented. There are people here now that were not here two, three or four years ago. In 1917 and 1918 the purchasing power of the consumer was decidedly greater than it is at this time, is greater, in his opinion, that it has ever been in the history of the country. That the prosperity brought on by the high price of cotton in the South was one thing, the conditions brought on by the war. The camps (army camps) were located all over the South; money that was being spent down here by the government, billions of dollars turned loose here from sources during those years that we never had before or since. Cotton was then worth forty cents; at the present time it is worth about ten cents. That the effect of the high prices for cotton upon the hog industry was that it had a tendency to lessen hog production because they all turned to cotton planting and stopped raising hogs, and stopped raising corn, too.

1136 MR. BROWN upon cross examination testified in substance as follows:

Q. And the same is true of the Andalusia plant, is it not?
A. Yes.
Q. Now, I understood you said that when you were representing the Cudahy Packing Company, you found that the western—soft local pork being offered on the market at less than western pork, and it was necessary to reduce the price of the western pork or lose the business to the southern pork?
A. That is correct.
Q. That was the experience you had as manager of Cudahy Packing Company?
A. Yes sir.
Q. Do you think that the managers of the other large packers here had the same experience?
A. I think so; they were all working under similar conditions.
Q. That is they were all selling western pork and found the southern pork a very troublesome factor?
A. Yes sir.
Q. Do you think Swift & Company found the same thing?
A. Yes, I think they did, because it has to be sold under the western.
Q. The fact that Swift & Company bought out the Moultrie and Andalusia plants rather confirms your opinion in that, doesn't it?
1137 A. Well, I don't know that it does.
Q. Well, they got out of the way two very large factors selling soft pork by doing it, did they not, Stanolin and Miller?
A. Well, they are handling it themselves.
Q. Swift have been handling it from the time they bought
A. Yes, I guess as far as those two concerns are conout the Moultrie and Andalusia plants and eliminated Stanolin and Miller from the market?
cerned, they was eliminated.

That he had never sold any southern pork and that his whole argument with his customers has been that it was inferior to Western.

1138 Atlanta, Georgia.
June 25, 1921.
10:00 o'clock A. M.

R. E. BARON, called as witness on behalf of Respondent, testified in substance as follows: (pp. 2303-2347)

Direct Examination

He lives in Atlanta and has been in the meat business for five years. That he is connected with the C. J. Kamper Grocery Company, as manager of the meat department, which said department is strictly retail. Kampers is one of the largest stores in Atlanta; that he was manager of the meat department for two years and two months. Before that, for a year and eight months, he worked with Mr. Cherry who was in the retail meat business; before that he was with the Central Meat Market on Alabama Street, in the capacity of a meat cutter; before that he was employed by the United States Government in the Secret Service Department.

Kamper Grocery Company does not handle any peanut-fed or Southern pork in any way, shape or form, the reason is their trade does not want it and they cannot dispose of it. That he had experience in using Southern pork in sausage; that one can never get sausage that will be hard or will keep good by using Southern pork. That when it
1139 comes to keeping qualities, the Southern pork will not keep at all in comparison to western pork. The Southern pork is so oily—it is always wet, and that oil is damp, and if it is taken out of the coolers for any length of time at all, a sort of scum forms on it. That all of the wholesale meat dealers solicited his business—every one of them; that most of his pork was bought from Arnold Packing Company who were located in Minnesota.

1140 T. D. BODY was called as a witness on behalf of Respondent, and after being first duly sworn, testified in substance as follows: (pp. 2348-2426; 2449-2483; 2508-2527)

That he was in the meat business; that he has been district manager for the Cudahy Packing Company for the past eight

years with headquarters at Atlanta. Before that he was district auditor for the same company for about ten years; that the following branch houses of Cudahy Packing Company are under his jurisdiction:

Atlanta, Birmingham, Chattanooga, Greenville, Jacksonville, Macon, Montgomery, Savannah, Tampa, and brokerage arrangements at Augusta and Rome.

That it is a part of his duties to keep posted on trade conditions in his district—what other people are offering to the trade and how it compares with what his company offers; that he knows competitors are numerous and competition extremely keen.

Witness then proceeds to name the concerns engaged in the wholesale meat business in Atlanta, which corresponds in substance with those named by previous witnesses.

Witness is then shown a map marked Respondent's Exhibit B-1 for identification, and names the cities where, to his own personal knowledge, packing houses are located. The
1141 cities he named correspond in substance with those named by previous witnesses.

That he visited the Macon Packing Company when the plant was being built and from time to time thereafter, up to about the time it was closed down; that he knows why the Macon plant was closed down; that it was because it was unable to operate profitably.

That the Waycross Packing plant was operating for two or three years after it was constructed; that he was at the plant about two years ago, after it was closed; that he was told in Waycross by local customers of the plant that the plant was unable to operate profitably.

That he visited the Statesboro Packing plant after it was closed; that it has not operated for the past two or three years; that on one of his visits to the Statesboro plant he was shown over the plant by one of the officers of the Company that built it, the officer in question was Mr. Brook Simmons; that he visited the plant at the invitation of the officers and was urged by the said officers to arrange for his company to operate the plant; that the said officers told him they had started out with a strong effort to operate the house properly and profitably, but found it impossible and had shut it down; that his company had been invited to operate
1142 several Southern packing houses, amongst them the Statesboro and Waycross plants. Witness was instructed by Mr. Cudahy to visit these plants at some time convenient for him on one of his regular trips in the district,

and report on what he saw; that afterwards, while he was in Chicago and talked the matter over with Mr. Cudahy, Mr. Cudahy told him he was not interested in Southern plants at this time. That he doubted if the supply of hogs would be sufficient to keep these plants in operation, and largely because the quality of the hogs continued to run soft, it was regarded as objectionable; that his recommendation was made about two years ago.

Witness visited the Moultrie plant about 1919—after Swift & Company had bought it. That there was very extensive additions being made to the house; they were building an immense freezer, adding to the cooling space, cooling floors, building stock yards and generally enlarging the whole capacity of the house. That he particularly noticed the freezer because while at Statesboro he had commented on the absence of a freezer at that plant, and told the Statesboro people that if they were going to successfully operate the house they would have to have a freezer there; the product being soft, it would have to be frozen to a certain extent before they could send it to market if they hoped to do anything with it.

1143 That he has been in the meat business for twenty-five years, and his experience covered chiefly branch houses; that he had occasion to observe marketing methods practically all that time, and had occasion to be interested in the production of live stock to quite an extent—and in live stock growing; that handling pork products in a more or less intimate way during that time caused him to be interested in the production of that pork, and to observe the necessity of the production of a firm fed hog in order to be handled successfully; that he has visited farms in the South and talked to the hog raisers, and also in Nebraska; that he has talked to the State veterinarian at the State House, the herdsmen out in the country, and the owners of the droves, and has found the soft fed hogs, being so much cheaper to raise, are largely in favor to the Southern farmers. The Southern farmers feed them on peanuts and get them as fat as with corn, but it is difficult to tell the difference between a corn fed hog and a soft fed hog when the hog is alive; that the cost of the feed is more in the North than in the South; in this section they turn the hogs into a field of peanuts and that there was practically no expense in gathering the crop—the hogs go in and feed themselves; that it costs more to produce a hog when it is corn fed; that from statistics he has obtained from the

1144 government and the state, based upon information he has, there are less hogs being produced in the South now

than there were in 1917 and 1918; that during 1917 and 1918 a great deal of product was going abroad—prices for pork and provisions generally were high. At that time Southern hogs were selling correspondingly high, and since that time cotton has recovered a good deal and there has been much less activity in raising live stock; that a great many farmers or planters have gone to raising cotton and are taking much less interest in raising live stock; that along in 1917 and 1918 there was a brisk demand and considerable more product moving than there is at the present time, and prices were higher. That a certain amount of soft product would move then, on the price proposition entirely, but that at the present time there are more competitors here and considerably more packing house products of all sorts available, and prices are now considerably lower throughout the list. The trade is more particular now, and is able to get supplies of Northern firm fed pork. That in his opinion the demand for Southern pork or soft pork was diminishing; the percentage of dealers that would buy Southern pork was considerably more in 1917 and 1918 than at the present time—at the present time there seems to be very little demand for it.

1145 *Redirect Examination.*

That competition was very keen amongst wholesale meat dealers in Atlanta; that his company had extremely keen competition at every point where they were located in the South.

1146 BYRON C. KISTNER, called as witness on behalf of Respondent, after being first duly sworn, testified in substance as follows: (pp. 2426-2448)

That he lives in Atlanta and runs a retail meat market; has been in the retail meat business about ten years; that, as markets go, his market is considered a large one. That he is the President of the Atlanta Retail Food Dealers Association and has been since the first of the year; before that he was Vice-President and on the Board of Directors for two and a half years. That his market handles a full line of meat, but does not handle any Southern hogs or cuts from Southern hogs except where he could not get Western; that he prefers to handle Western hogs because the trade demands them; that he would not handle Southern pork loins or smoked

meats at a cheaper price if he could get the Western product; that he is a citizen of Georgia and has the State's interest at heart, but as a commercial proposition he would handle the Western pork.

Mr. Kistner, upon cross-examination testified in substance as follows:

That he did an annual busines of $200,000.00 a year; that 33-1/3 per cent of this was on pork products or about $66,-
000.00; that about half of his pork products was fresh
1147 pork or about $30,000.00, and the balance smoked and
salt meats; that he sells to "A" class customers that want good stuff and that are willing to pay a good price for it; that his market is located in a good section of the city.

That he has bought soft pork at different times, occasionally, when he could not get Western pork; that soft pork has been sent him occasionally and he has had to return it; that it has been fully a year since he purchased soft pork; that he has never bought as much as 500 or 1,000 lbs. of soft pork at one time; that he might have bought 200 lbs. soft pork loins at different times, possibly soft pork hams, and 100 lbs. soft pork tenderloins in years back. That he has never purchased any soft smoked pork which would include hams and bacon; that in 1917 he purchased fresh pork from M. M. Stanaland who was representing the Moultrie Packing Company at that time; that he could not say how much he bought, but that he supposed he bought some occasionally, off and on, might probably be more frequently than once a month, that he could not say it was once a week; that he never purchased any hams or bacon from Stanaland; that he has no idea as
to how much fresh pork he purchased from Stanaland
1148 in 1917.

Upon redirect examination, Mr. Kistner testified in substance as follows:

That he could not tell what the occasion was when he bought pork from Stanaland but he would judge that it was because he could not get suitable Western pork, and that he would judge fresh Western pork was scarce; that he would have used Western if he could have obtained suitable Western pork; that he could not use frozen Western pork; that he has never seen Southern pork that was equal to Western pork but possibly he could only get Western pork loins that weigh 18 lbs. and were frozen, so he would then prefer Southern fresh loins that weight about 8 lbs. to the 18 lbs. frozen loins; that he preferred fresh to frozen pork at all times.

1149 W. O. PEAVY was called as witness in behalf of Respondent, and after being first duly sworn, testified in substance as follows: (pp. 2484-2489)

That he is not in the meat business for himself now; that for twenty-seven years he was a partner of Scott & Peavy, which handled fresh meat; that that firm quit business in March, 1920. That he is now manager of the meat department of the firm of Kinne & Boswell. That he did the buying for the firm of Scott & Peavy for twenty-seven years and bought the best he could get on the market; that he bought Western meat entirely, and that he would not have the peanut fed pork if he could get any other kind; that he did not want it at any price. That the same thing applies to the market he is now working for.

1150 F. B. RANDALL, called as witness on behalf of Respondent, after being first duly sworn, testified in substance as follows: (pp. 2490-2505)

That he lived in Atlanta and was district manager for Morris & Company; that he held that position since December 4, 1919; that he has been in the packing house business approximately ten years. That the Atlanta house of Morris & Company occasionally gets in a shipment of dry salt meats made from soft and oily pork; that his experience in handling soft pork has been very unsatisfactory because they were forced to stand a tremendous shrinkage of them, causing his firm to lose money on all shipments handled.

That the branches of Morris & Company under his jurisdiction are as follows:

Chattanooga
Atlanta
Augusta
Savannah
Macon
Cordele
Columbus
Jacksonville
Tampa
Pensacola
Mobile

New Orleans
Montgomery
Birmingham

That it was part of his duties to keep posted on trade
1151 conditions in this particular territory; that, in his opinion, not over five per cent of the Atlanta customers of Morris & Company handle soft pork.

Witness names companies engaged in the wholesale meat business in Atlanta, which is substantially the same as that given by previous witnesses.

That he found competition here in Atlanta very keen, and it was a puzzle for them to get business and meet competitive prices. The same condition exists at all other points in his territory.

Cross-Examination.

That Morris & Company sells to approximately 500 retailers in Atlanta and that approximately five per cent of these dealers plus 25 handled soft pork from 1919 to present time.

1152 W. A. PERKINS was called as a witness on behalf of Respondent, and after being first duly sworn, testified in substance as follows: (pp. 2527-2585)

That he lived in Atlanta and was engaged in business as a broker, handling provisions; that he represented the Jacob Dold Packing Company, the East Side Packing Company and C. F. Vissman & Company.

That the Dold plants are located at Buffalo, New York, Wichita, Kansas and Omaha, Nebraska; that he sold the full line for the Dold Company, including fresh pork, smoked meats, dry salt meats, pure lard, and fresh meats except beef.

That the East Side Packing Company is located at East St. Louis, Illinois; that for the said company he sold cured meats, smoked meats, lard, pork cuts of all kinds, and some beef, also fresh pork, including loins.

That the C. F. Vissman Packing Company is located at Louisville, Kentucky; that for that company he sold cured meats, fresh meats and some beef and lard.

That he would say he sold the full line for the Vissman Packing Company and the East Side Packing Company, and the full line for the Jacob Dold Packing Company with the

exception of beef; that he has been representing the
1153 firms above named for over a year; that prior to that time he represented the T. M. Sinclair Company of Cedar Rapids, Iowa, and the plant at Statesboro, the Bullock Packing Company; that he represented the Sinclair Company from April 1916 until May 1917; that he represented the Bullock Packing Company from October 1917 until May 1918. That the product from the Statesboro plant was what is known as soft and oily pork; that there is a difference in quality as well as price; that the soft and oily pork sold from two to three cents under the price for Western and Northern pork.

That at the present time competition is very keen on the Atlanta market, both from the branch houses located here and the peddler cars coming into the market.

Witness then named the wholesale dealers doing business in the Atlanta market which is substantially the same as that given by previous witnesses.

That in 1916 he was handling provisions on this market and competition then on provisions was about the same as it is now; that he found competition very keen in the fall and winter of 1917 and the spring of 1918; that he was out of business from 1918 up until 1919; that at all times he has been in this market, he has found competition very keen; that
1154 the number of wholesale dealers doing business on this market has increased.

That when he was representing the Bullock Packing Company in 1917 and 1918, he was selling soft and oily pork; that at the time he came in competition with Swift & Company they were selling the same article; that as he went around amongst his trade he found Swift & Company were selling goods of the same nature to the trade; that he had an opportunity to judge whether or not Swift & Company was making a wholehearted effort to sell this soft and oily product; that he found they were working the trade with their salesmen and quoting prices in line with those made by other people in those things; that they seemed to be working the trade just as they did on their other stuff, and their stock seemed to be plentiful at all times. That he stopped representing the Bullock Packing Company because that firm discontinued business, and that he understood their business was not profitable.

Cross-Examination.

That he was employed by Swift & Company from 1908 to 1916 with the exception of a short time when he was with the National Packing Company; that when he first came to Atlanta in April, 1916, he became a broker for the Sin-
1155 clair Packing Company and at that time the Moultrie Packing Company was selling products in Atlanta through M. M. Stanaland and the Andalusia Packing Company through the J. W. Clark Company; that he was not handling fresh pork for Sinclair, only provisions.

That he first began to sell southern products when he took on the account of the Bullock Packing Company in October, 1917; that these products included fresh cuts, green hams, shoulders, loins and some little stuff; that in November and December 1917, and in January, 1918 he sold some soft cured meats and lard; that his average sales were about 12,000 lbs. a week; that he found as a result of his visits to the trade from day to day and the reports that were made to him by his salesmen that there was quite a good deal of Moultrie pork in the Atlanta market, but not as much Andalusia pork as Moultrie in the fall and winter of 1917-18.

That the Bullock Packing Company did not kill very much stuff; that he did not push the sale of products of the Bullock Packing Company because he had other lines that were more profitable; that Mr. Miller of the J. W. Clark Company handled some soft pork accounts including the Chipley
1156 Packing Company and the Stanaland account for the Macon Packing Company.

At the present time Swift & Company and Armour & Company are handling soft meat products in Atlanta.

Counsel for the Commission asked the following question: "I say you are not very much troubled with competition with soft meat?", to which witness replied: "Well, there is not as much of it as there once was of course." Question was then asked by counsel for the respondent: "Why is that, Mr. Perkins?" Answer: "Well, I figure it is because the dealers here realize that they cannot make as much money on it; it is not satisfactory—that is due to the quality of the meat."

Redirect Examination.

That from the standpoint of a broker doing business on the Atlanta market, he considers it more desirable to represent a packer who has Western meats to offer; that he does not

consider the account of a packing house handling soft and oily hogs is desirable, because there is more product returned, more short weights, it costs more to handle it, and the demand from the trade for this class of product is lessening.

1157 That in 1917 and 1918 business was considerably better than it is now, and product was not as plentiful; that in 1916 and 1917 the demand for all kinds of pork products was greater than it is now—there then were a demand for soft and oily pork; that the demand for soft and oily pork has been constantly lessening, in his opinion, based upon his knowledge of the trade conditions in Atlanta.

Recross Examination.

That his statement that the demand for soft products is less now than in 1917 is based on the fact that there are fewer people now buying and using soft pork than there were in 1917.

That he thinks there are fewer people buying and using soft pork this year than there were last year, and that there were fewer people buying and using soft pork last year than there were the year before; that there were fewer people buying and using soft pork in the year 1919 than there were in the year 1918, and that there were fewer people buying and using soft pork in the fall of 1918 than there were in the fall of 1917.

1158 *Redirect Examination.*

That he believed that the experience dealers have had with the southern stuff is the cause of the diminishing of the demand; that their experience has been unfavorable; that his experience in handling soft and oily pork was that it would not keep as long; that they had more trouble in keeping it and that it was almost impossible to freeze it and keep it that way; that the shrinkage was very great on it, both from the butcher's standpoint and the retailer's.

1159 E. B. ADAMS, called as witness in behalf of Respondent, after being first duly sworn, testified in substance as follows: (pp. 2585-2605; 2654-2717)

That since April 15 of this year he has lived in Atlanta and is now district manager of Swift & Company, in charge of

what is known as Atlanta territory; that houses under his jurisdiction are:

Atlanta
Chattanooga
Knoxville
Nashville
Columbus
Waycross
Macon
Augusta
Savannah
Jacksonville
Florida
Tampa
Miami

That he has been in charge of this territory since April 15 of this year, and previous to April 15 was in charge of what is known as Birmingham territory, with the following towns under his jurisdiction:

Birmingham
Gadsden
Huntsville
Albany
Sheffield
Memphis
Greenville
Greenwood
Tupelo
Tuscaloosa
Montgomery
Anniston

1160 That he was in charge of the Birmingham territory for nine years and eleven months; that his principal duty as district manager is to sell the products; that he is what might be termed a district sales manager; that the managers located at the several branch houses are under his jurisdiction.

That the business of Swift & Company is the meat business; they are called packers and handle the full packing house line. That the following dealers were in the wholesale meat business in Birmingham:

Armour & Company
Geo. Hormell
Morris & Company
Cudahy Packing Company

Wilson & Company
Evansville Packing Company
Birmingham Packing Company
Alabama Packing Company
Independent Packing Company
Newhoff Packing Company of Nashville
Krey Packing Company
East Side Packing Company of St. Louis
Kingan & Company
Cincinnati Abattoir Company
Corn Belt Packing Company of Dubuque, Ia.

That the following concerns have been engaged in business in Birmingham prior to 1911 and sell the full line of cured and fresh meats:

Swift & Company
Armour & Company
Cudahy Packing Company
Wilson & Company and their predecessors the S. & S. Company.

1161 Birmingham Packing Company (a killing plant under Government inspection) with a downtown branch house for a distributing point.

That the following concerns were in business for the time indicated:

Inman & Company. Previous—four years.

Evansville Packing Co. Sell the full line.

Independent Packing Co. of St. Louis. In and out of the market for a number of years. They ship in in car routes and are quite a factor in the Birmingham market on fresh pork.

Hoffman Packing Company of Cincinnati. Ship in car lines, also are in and out of the market.

Hormell Packing Company. Has a branch house here.

Kingan & Company. In and out of the market for the past ten years—ship in car routes.

Decker Packing Company of Mason City, Iowa. Ships in in car routes.

Cincinnati Abattoir Co. Has been coming into Birmingham since 1920. They ship in car routes.

Newhoff Packing Company. Were shipping into that market last year.

Alabama Packing Company. A local plant was built in 1913 but never operated on a very large scale.

Cox & Gordon. Were packers represented in Birmingham by a broker, shipping in cars, what is known as a car

line or car route. Have been there over two years and probably considerably prior to that time.

1162 Guggenheim Packing Company. Are in that market. They ship car lines into Birmingham.

That Swift & Company employed a crew of salesmen and went out soliciting business from the dealers; that the competitors did the same, and all went after business; that it was his duty to visit each point about once a month and he approximately did so; that he was familiar with the territory under his jurisdiction; that in making his rounds and coming to a point where they were not getting a fair amount of business on a particular item, he would investigate and try to find out the trouble and the remedy; that it was his duty to have the salesmen sell the goods and he endeavored to do that duty or find out why; that he was in touch with general conditions and was fairly close to the market conditions at each point in the territory; that there are other dealers selling meat at these same points and he has plenty of competition, that is, where there is business there is competition in the meat line. That has been his experience, any number of them. That he has a good knowledge of competitive conditions at these several points; that he has found where there was one buyer there was some eight or ten different dealers going after the order and soliciting the business from

1163 the retail dealer; that this applied to all points in his territory. That since 1917, branch houses in his territory have handled soft and oily pork—not all of them—but where the freight rate was logical, they would handle the Andalusia pork products which come from the packing plant at Andalusia. That with regard to the facts as to whether an effort was made to sell Andalusia products in that territory, he would say it seemed to him every few days they could get a wire from Andalusia that they needed orders for some certain product, one or several, and it was his duty to take up with the managers and solicit orders for the Andalusia plant, and it was quite an effort to get orders. In other words, sometimes he had to demand that the branch house managers give Andalusia orders, and that he made such demands; that he encouraged the sale of the Andalusia products just about as forcibly as he could. Naturally the Andalusia pork did not move very good or they would not have had this big effort to try to get the managers to take it; that Swift & Company put those managers in charge of the branches and told them to do business and make money,

and if they could sell Andalusia pork readily and make money on it they would not have to ask them to take it.
1164 They would insist on getting it. As a rule, the Andalusia pork was unsatisfactory, particularly shipping cured meats. The Andalusia plant manager and provisions man were constantly visiting the various branches and quite frequently asked him to go with them to these houses and hold meetings, with a view of creating a better outlet for their production. By outlet he meant orders for car shipments—shipments from Andalusia to these various branch houses.

That they did sell a fair amount of the Andalusia product; that it was up to his territory and the New Orleans territory to use the production of the Andalusia plant, and they had to take their portion of it, whether the managers wanted it or not; that the territories referred to were called upon to use the Andalusia product; that the steps taken by him to make the managers move the product were—if the matter was urgent, to wire the several branch houses that Andalusia had to have an order for so many cattle or so much pork for shipment that day, and if the matter was not immediately urgent he would write a letter requesting the managers to order certain product from Andalusia; that he insisted on these houses taking Andalusia product; that the directors of Swift & Company put it up to the district managers, and they had to take their proportion of the Andalusia produc-
1165 tion; that it was not a question of argument, it was their duty; in other words, they had to do it.

That since he has been manager of the Atlanta territory the situation with respect to Moultrie was similar to Andalusia; that it was up to the Atlanta territory to give the Moultrie plant an outlet for their production; that the managers were forced to send their orders to Moultrie just the same as they would to any other plant; that if they failed to do this, it is up to him to insist on their giving those orders; that he used the same method over here (Atlanta) that he did over there (Birmingham), and handled it by calling on the phone or wiring or by mail, and if it was urgent and quick action was necessary, he phoned and said he had to have an order for a certain kind of product in certain quantities. That the managers were put in the branch houses to do business, and if they could sell the soft stuff they would not hesitate to order it; that their experience with it is that it has been unprofitable; they have trouble with the trade; the product is returned to them quite frequently, and they

lose money on it; have excessive shrinkages on it; it don't hold up as readily as the Western pork, and it is un-
1166 profitable from a branch house standpoint.

That for the purpose of selling more of the soft and oily products from the Southern plants, they have held numerous meetings of plant managers and the sales organizations, they have even visited one after another of the branch houses with the representatives of the Andalusia plant with a view of creating more interest in the sale of the Andalusia product. That just two weeks ago he made a trip over to Florida, held salesmen's meetings at each point, largely to sell Andalusia pork; that Andalusia products were about the only thing discussed; that the purpose of the meeting was to give Andalusia and Moultrie an outlet for some product they wanted to move immediately.

Recross Examination.

That it was a very common thing for the salesmen to complain that competitors had a lower price; that those complaints came in every day; that they usually came from the salesmen as an alibi as to why they had not done more business; that complaints were not applied to any one competitor; they applied to all competitors, large and small; that also they did not apply to any particular product, but to various products.

1167 *Redirect Examination.*

That he would say Atlanta was a very heavy pork consuming market—above the average; that Atlanta is the principal city in the territory known as the Southeastern states; Birmingham is next.

That a good many of his salesmen this year (1921) were showing a decrease in their volume in comparison with last year of maybe thirty per cent; that he attributed this to increased competition and possibly lighter consumption.

1168 MR. W. H. WHITE was called as a witness on behalf of Respondent; and after being first duly sworn, testified in substance as follows: pp. 2606-1649

Direct Examination.

That he has lived in Atlanta for the past forty-five years; is engaged in the packing business and is the President and General Manager of the White Provision Company, local packers:

Q. What is the character of the pork products that you manufacture from the hogs that you obtain in Georgia? Are they firm products or otherwise?

A. The majority of the pork that comes from the Georgia hogs is soft pork.

Q. Well, now in your opinion first from you experience in the business, can you state as to what proportions were soft and oily and what proportions were firm of the Georgia hogs?

A. My opinion of the percentage of the hogs originating in Georgia will run from 85 to 95%.

Q. 85 to 95 per cent what?

A. Soft or oily.

Q. (Mr. Taylor): When—what year is this you are talking about?

A. I am talking about the present time or any time within recent years: 85 per cent may strike it right for the
1169 present time, and back a few years 95% would be better.

Q. (By Mr. Horton): What would it be in 1916?

A. Be nearer 95 than 85%.

That the quality of the soft and oily pork is undesirable to the man handling the pork, and it has to be sold to a class of trade that is more or less indifferent as to the quality, merchantable quality; that it is wholesome and sweet and good, but is not as merchantable as firm pork, and is very undesirable, especially to trade catering to the better class; that it cannot be sold as readily as Western pork, and in most cases is sold at a very great reduction in price; that in some cases the trade won't have the soft pork at any price; and where it is a trading proposition with a man a price will have to be made two or three cents under firm pork, that is especially true if it is oily. That competition in the sale of pork products was very close and keen; that every firm sell-

ing pork in Atlanta was out for what business they could get; that you have got to sell the product that is desirable and deliver it to them with good service in order to get business at all; that competition is just as keen in beef and provisions as it is in pork.

That salesmen for his company in a general way in calling on the trade come in contact with the salesmen for Swift & Company; that he has never had his attention called to any unfair practices of Swift & Company.

1170 *Cross-Examination.*

That his concern employs about ten salesmen, six of whom call on the Atlanta trade and four outside of the city. That aside from his Company, Swift & Company and Armour & Company he does not think anyone else is selling soft pork in the Atlanta market.

That the things he testified to in regard to competition were obtained in his general contact with the conditions; that he does not canvass the trade and call upon the retail dealers as a salesmen although he does sell some products such as hides and tankage.

That he began in the meat business when he was about 20 years of age and has been in the meat business ever since. That he began selling goods in Atlanta on a commission basis for Armour & Company and continued with them for about a year, and then got a position with Nelson Morris in Atlanta, selling their full line of products. That he continued with Nelson Morris for about two years and then got a position with Swift & Company in the capacity of city salesman. He continued as city salesman for about a year and a half in Atlanta; then in 1899 he was sent to Jacksonville, Florida, as manager of their branch house, where he remained until September 1900, when he became Southern District Manager for Swift & Company with headquarters at Atlanta, and that he remained in that capacity with
1171 Swift & Company until the fall of 1906 when he organized the White McLendon Company, which later became the White Provision Company. At first from 1906 to 1909 or 1910 the White McLendon Company acted as jobbers and wholesalers of fresh meat and provisions; in 1908 the name was changed from the White McLendon Company to the White Provision Company, and in 1910 the present packing plant was built. That the White Provision Company first began to slaughter in March, 1910; that at that time it de-

pended almost entirely upon Tennessee as the place from which to get its hogs; that at that time there were no Georgia hogs on the market in this territory; that from the very first his Company tried to encourage the farmers to raise hogs, and began shortly to get a few hogs from year to year in slightly increasing numbers in the early years, but they then began to get a little more, particularly after they began to get a market for those hogs; that it is a fair statement to say that it was not until the year 1914 before there were Georgia hogs in numbers of any consequence; that in the early years hogs were regular in size and there were not many packing hogs coming in from Georgia; that the Georgia hogs were sold principally as that product known as butcher pigs—that means the hog was simply dressed and delivered whole to the butcher—fully dressed, without having been cut—the whole carcass, head, feet and all; that it might be stated very emphatically that there was no demand
1172 for soft products; the demand was for hogs; that they encouraged the farmer and paid all they could to get them when they did come to the market, and assumed the burden of marketing that pork; that they had to make the demand; that his company have never yet received an order for Georgia hogs nor an order for pieces of Georgia pork during the time it has been in business; that there was not any demand; that nobody ever came in and wanted to buy soft hog; that in order to sell it they had to get out and push it; that it was a selling proposition; that there never has been any demand made to their company for soft and oily pork; that it has sold lots of it, but it was a question of selling and not filling orders specifically for soft pork.

1173 R. A. HILL was called as witness on behalf of Respondent, and after being first duly sworn, testified in substance as follows: pp. 2718-2767

Direct Examination.

That he lived in Atlanta and was manager of the local branch house of Swift & Company since October 13, 1919; that prior to that time he was assistant manager and salesman for Swift & Company since February 1, 1917; that a branch house is a distributing point for Swift & Company's products; that the animals are slaughtered at the various plants and the product shipped in refrigerator cars to the

branches; that products are all perishable and come under refrigeration; that the Atlanta branch house handles the full packing house line; that it has four trucks, three wagons and eight Ford runabouts, the latter used by the salesmen in working their trade. That since around the first of the year of 1919 there have been ten salesmen; that when he first came to Atlanta the same branch had nine salesmen; the latter part of 1917 they had fourteen or fifteen; that the extra salesmen were used in working the war camps in and around Atlanta; that the Atlanta branch house sold to those camps, and had four or five men working that trade; that the product was carried in the coolers and delivered to the retailers as they called for it or as they buy it. If a customer wants one pork loin, he get one pork loin; if he wants five
1174 pounds of spare ribs, he gets five pounds of spare ribs—any amount; that it is delivered to the customer's place of business; that if a customer buys a week's supply, it is held in the cooler and delivered to him as he calls for it. As an example of this worked, the witness recited Kistner's Market or Kamper's Market, who buy anywhere from five to fifteen cattle a week, or five hundred pounds of pork loins at a time, or five hundred pounds of hams at a time. The product is held in the cooler and delivered to the customer as he calls for it; that the Atlanta house handles both firm Western pork and soft and oily pork; that it has been handling soft and oily pork since the Fall of 1917; that the Western pork will keep longer, frozen or fresh, than the soft and oily pork; that the latter cannot be frozen for any length of time and have it show up right when taken out of the freezer. Western pork is handled both fresh and frozen, and the soft and oily pork must be frozen or it cannot be handled at all; that if it is thawed out when the customer gets it he will send it back; that it must then be resold and is worth ten or fifteen cents a pound less than it was when it went out originally. That Western pork loins will shrink about two per cent when held in the cooler for a period of from twelve to fifteen days; that soft and oily pork loins will shrink as much as five per cent when held in the cooler for a period of from five to six days; that the Western loins are corn fed
1175 and firm; that the peanut fed loins are soft, and the shrinkage manifests itself by the oil actually running out of the loin. Smoked meats will shrink about the same way in the same percentage; bacon will shrink even more—the witness has known instances where shrinkage on bacon would run as high as ten per cent.

That the branch house does not attempt to sell the soft and oily pork at the same price as it does the western; it could not; that the difference is three or four cents a pound, and many times is more than that; that they must sell it at some price where it will move; that it cannot be kept; that if an attempt was made to keep it it would spoil; that if it does not sell at the price asked for it, they make a price that will sell it—regardless of cost.

That for accounting purposes this branch house is run the same as an independent business; that everything that is shipped to the Atlanta branch is treated as a straight sale with the exception of a very few beef cuts which are sold on a commission basis; that the house is capitalized and gets out a balance sheet of its own; that it figures its own results; that the witness had checked the sales from time to time, close enough to know that the branch house has not made actual expenses for doing business on Southern pork. That a great deal of Southern pork is returned and has to be sold again; that some of it is returned every week. That the lard
from the Southern hogs is as hard to sell as any other
1176 product; that there is now in the warehouse about twenty tubs of lard from Moultrie that is just like oil; that it will not hardly hold up in winter time, then it will stay firm enough to disk it out and that is about a;; that that lard cost the branch 11-1/2 cents a pound; that the best offer he was able to get for it was six cents a pound; that at least a dozen people have looked at it and have offered from two to six cents per pound. That soft and oily products have been handled by the Atlanta branch since the Fall of 1917; that an earnest effort has been made to sell every pound of it; that all the trade has been canvassed in an effort to sell this pork. That on a number of occasions an attempt was made to handle Moultrie pork to the exclusion of the firm Western pork; that an instance is in March of this year the Atlanta branch ordered from Moultrie ten thousand pounds of pork loins and eight thousand pounds of shoulders to sell to meet car route competition; that they not only met competitors' prices but made lower prices; that the first week it went fairly well—no money was made on the loins, but enough to do business; that the second week so many kicks were received and so much of it returned that the branch had to go back to the Western pork; that some of the customers refused to buy from the branch if it did not start handling Western pork; that customers said they could not handle it and would

not attempt to handle it exclusive at any price; that
1177 the salesmen said they positively could not sell it except to only just a few customers. That in June and July, 1917, he was in actual contact with the trade, and in his opinion not over five per cent of Swift & Company's customers handled soft and oily pork at that time; that he had attended meetings where the subject of soft and oily pork was discussed; that these meetings were held with Mr. Lavery, district manager, Mr. McDowell, manager of the Moultrie plant, and managers of four branch houses; that the purpose of the meetings was to devise some means of disposing of our Moultrie plant output—and insisting on the branch houses taking it; that the branch house managers order what they want; that at times heavier product or something is substituted, and very often the quantity is increased; that when the branch houses got it they had to sell it and they had to sell it right away; that the customers do not demand the soft and oily pork, it has to be sold to them; that if one picks up a soft and oily loin and holds it by one end, the other end will flop around and meet the end held; that customers claim they cannot even hold it on the blocks to cut it. The loins come packed in boxes in sizes of fifty and one hundred pounds to the box; that the attempt is made to sell them in box lots, but not insisted upon; that a customer will be given anything from one loin up; that part of the service is to satisfy him, and if satisfied, he will order more.

1178 *Cross-Examination.*

That Mr. Stanaland was selling oily pork when he came to Atlanta and kept on selling it up to the time that Swift took over the plant. That he found after he started in as a salesman for Swift & Company in May 1917 a few of the people he called on were buying soft and oily pork from Stanaland; that he kept his manager posted on all conditions; that he not only reported the price of soft pork but he reported what all competitors were doing that affected their business.

That the total number of customers in Atlanta in May, 1917 was around 450 or 460 but that he never had counted them; that very few of his customers, from his personal experience, were buying soft and oily pork; that he did not find any of his customers buying soft and oily pork because he worked the up-town trade; that he called on about fifty customers, hotels, restraurants and some large up-town businesses, such as Kistner's Market, Forrest, Cherry, Weincoff

Hotel, Georgian Terrace, C. J. Kamper, Union Market, Ansley's Hotel, Varelas Cafe, Delmonico, Ruse & Cason, Thompsons Restaurant, Chamber of Commerce Cafe, Terminal Restauarant, Imperial Hotel, Plaza Market, McIntire Bros., J. H. Bullock, Sanitary Markets, Buhler Bros., and John G. Kato.

1179 That he cannot recall the names of the other markets that were among his customers at that time; that of the eleven markets he had named some of them handled soft and oily pork at times; that Kistner's market handled it very little only when he could not get the average western pork that he wanted; that Kistner would not handle it when he could get the average that he wanted in western pork; that the same was true of Forrest, Cherry, Kamper, Union Market, Plaza Market, J. H. Bullock, Buhler Bros. and McIntire Bros.; that the Sanitary Market handled more than the rest of them; that he would buy anything cheap; that if the packers had any loins that were a little sticky they could always unload them on the Sanitary Market at a price. John G. Kato handled little oily pork, mostly hams.

That soft and oily pork was sold both fresh and frozen at times; that his estimate five per cent of the customers of Swift & Company handling soft pork was based upon the customers he called upon in the city and by getting his information from other salesmen and at salesmen's meetings on Saturday afternoon; that all the customers he called upon handled soft and oily pork at times; that all the best markets did not handle soft and oily pork only under the same conditions that he testified with respect to his customers; that if

1180 they could not get the average that they wanted in western pork they would take southern pork rather than go short, that some of the customers all over the city would buy southern pork at times when they could not get the average that they wanted in western pork.

Redirect Examination.

That the Sanitary Market is not a customer of his; that Mr. Gatlin is a C. O. D. customer of his firm; that they do not consider him a good credit risk; that he was not a customer of theirs when witness came to Atlanta in 1917, and that condition has continued to the present time; that he remembered once or twice when some of his market men would come down to our place and pay cash for beef, veal, lamb, or pork, if they run short; very little, though. That the witness

would say that a commission of half a cent a pound on fresh meat and two and one half per cent on the balance of the products put out by Moultrie would be a good profit; that the profit of his branch would run less than that.

1181 HENRY T. GOLIGHTLY was called as a witness on behalf of respondent, and after being first duly sworn, testified as follows: pp. 2779-2791, 2807-2811

Direct Examination.

That he lives in Fairburn, a suburb of Atlanta, and is employed by the White Provision Company as head accountant for the past six years.

Witness was then asked if he can refer to the records of the Company which he has brought with him and tell the number of hogs slaughtered by the White Provision Company in the year 1916. He was asked by counsel for respondent to please do so, thereupon counsel for the Commission made the following statement:

Mr. Taylor: Now, Mr. Examiner, I wish to object to that question as irrelevant to the issues in this case.

Exam. Sadler: The objection will be noted.

Mr. Taylor: Mr. Examiner, I have been making these same objections from time to time with rather monotonous regularity since this proceeding commenced, and the objections have been uniformly noted, and we have been proceeding to take testimony going far afield. About nine-tenths of the testimony taken, according to my view, has nothing more to do with the issues in this case than a learned discourse on the effects of the moon would have to do with the art of cheese making. Now, I think it is time for us to take

1182 our bearings, and again examine the real issues in this case and determine what should go into it, and what should not. There is no use of our raising misconceived issues in our minds and offering a great amount of testimony upon them, encumbering this record with stuff that is not going to mislead either the Commission or the Court; but will merely submit us to censure for putting in a whole lot that has nothing to do with this case. This proceeding, Mr. Examiner, is based upon Section 7 of the Clayton Act. The portion of the section that has anything to do with the case I will read.

Mr. Taylor: Mr. Examiner, I think it is high time this

question was seriously presented here. It is contained in the first paragraph of the section, and reads as follows:

"That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share of capital of any other corporation engaged also in commerce, where the effect of such acts may be to substantially lessen competition between the corporations whose stock is so acquired and the corporation making the acquisition."

Now, Mr. Examiner, so far as this section—so far as the Clayton Act is concerned, that is all there is in it that has anything whatever to do with this case. It does not make any difference what competition there may be now, or may at any previous time have been between Swift & Company and the White Provision Company, Swift & Company and Armour & Company, or Swift & Company and any other
1183 concern, other than the Moultrie Packing Company and the Andalusia Packing Company. So far as the issues raised under Section 5 of the Federal Trade Commission Act are concerned, the only question there is unfair methods of competition as between Swift & Company on the one hand and the Andalusian Packing Company or the Moultrie Packing Company on the other hand, and relations between Swift & Company and these various others concerns having nothing to do with the case; so far as any of the issues are concerned, the quality of the material put out by the Moultrie Packing Company or the Andalusia Packing Company or by any other competitor is absolutely beside the issues; the price that they charged for it has nothing to do with the case; whether Swift & Company is pleased with its bargain or whether it is sick of its bargain has nothing to do with the case. All there is in the case, did they buy the stock; this they have admitted; was there competition at the time of the purchase of the stock; this I submit we have shown; was competition thereby or as a result thereof, eliminated between these particular corporations? Now, I submit it is not right, it is not fair to the Commission; it is not fair to the court, to gather a great mass of stuff that they must read and eliminate; and I also think it unfair to the respondent as well as to the commission to make them pay for a record, a big record that has nothing to do with the case. I therefore ask that these objections be more seriously considered.

1184 Mr. Horton: It seems to me, Mr. Taylor, that the objection comes pretty late, after some 1500 pages of

testimony has been taken by both the respondent and the commission.

Mr. Taylor: I submit the commission's case was put in with due regard to the issues, as I have just outlined them. I perhaps am somewhat remiss in not calling attention to my objections to this class of testimony as irrelevant at an earlier time, but I have been objecting to it right straight along; if we can shorten the record in any way, I think it is fortunate that the matter is brought up at this time in this way. I ask counsel for the respondent to help me keep the issues in this case, that is, to keep the evidence in this case within the real issues.

Mr. Horton: I will be very pleased to comply with your request, but I most respectfully submit that I must produce such evidence as seems to me go to to the issues in the case; my construction of the law, my construction of the facts that are applicable to the issues is not the same as yours.

Mr. Taylor: It is far from my desire to preclude the respondent from introducing any evidence which he believes fairly comes within the issues of the case, to help him prove his case or support his contention, but I must insist
1185 that a large mass of the stuff that has been brought in has absolutely nothing to do with the case; I really believe that counsel will agree with me in a very large part to that, in that conclusion, although I wont ask him at this time to say that he does, which I know would be going too far.

Mr. Taylor: Well, do I understand that the examiner rules that the number of hogs slaughtered by the White Company in the year 1916 has anything whatever to do with the question of whether Swift & Company on the one hand and the Moultrie Packing Company and Andalusia Packing Company were in competition prior to October, 1917?

Exam. Sadler: Nothing to do, no.

Mr. Taylor: Can you conceive, Mr. Examiner, that this has anything whatever to do or throws any light upon the question of whether or not the effect of that acquisition was to eliminate competition between Swift & Company and those other two companies?

Exam. Sadler: No, I would not want—

Mr. Taylor: Then why should this record be encumbered; the mere fact that we have done it in the past ought not to be precedent for continuing to do it.

Mr. Horton: I take it your Honor is not going to construe

the issues at the present moment without hearing argument on both sides?

1186 Mr. Taylor: I would be exceedingly glad to have counsel for the respondent given every possible opportunity to argue this question; if I am wrong, I will be only too happy to have it pointed out to me, or shown wherein I am wrong. I would state again that my desire here is solely to come down to the real issues of the case, and avoid unnecessary taking of testimony; it is not to preclude counsel for the respondent from putting in anything which really has anything to do with the case; I am perfectly honest and sincere about that; and accordingly should be only too glad to have counsel fully heard upon that question, and at this time.

Mr. Horton: I dont care to argue it now, but I think that the purpose of this evidence will be very apparent when it is all in.

1187 Witness Golightly then gives the number of hogs slaughtered by the White Provision Company for the years in question as follows:

Number of Hogs Slaughtered by White Provision Company.

			From Ga. and Ala.		From Tenn.	
Year.	No Hd.	Live Wt.	No. Hd.	Live Wt.	No. Hd.	Live Wt.
1916	25727	No other data available				
1917	26314	3,972,973	23,591	3,511,005	2723	461968
1918	25693	No other data available				
1919	34785	5,414,247	21,237	3,364,316	13548	2049931
1920	36428	6,210,535	11,497	2,063,545	24931	4146990

Witness Golightly, referring to records before him, gave the number of pounds of fresh pork products sold by the White Provision Company in Atlanta and suburbs for the week ending September 30, 1916, and for each week thereafter down to and including May 26, 1917:

Week Ending	Pounds fresh pork	Pounds of Whole Pigs
September 30	6860	5491
October 7	8173	9705
October 14	11464	9220
October 21	16023	1732
October 28	19836	19712
November 4	22674	22039
1188 November 11	19362	21020
November 18	23092	23715
November 25	24261	18927
December 2	17329	27963
December 9	18342	22848
December 16	16843	22734
December 23	25174	27736
December 30	22161	28166
January 6, 1917	17485	17346
January 13	26051	31860
January 20	22631	25687
January 27	20584	29496
February 3	19040	22837
February 10	24924	32551
February 17	22009	18747
February 24	19275	21298
March 3	18360	16728
March 10	13101	34028
March 17	20964	24560
March 24	24133	19448
March 31	16638	13094
April 7	10686	9993
April 14	8226	9033
April 21	6186	6212
1189 April 28	4679	2065
May 5	6056	1529
May 12	8692	874
May 19	10272	516
May 26	7708	629

That the total sales of fresh pork and whole pigs was 1,194,042 lbs.

1190 After Recess.

2:00 o'clock P. M. June 30th, 1921.

Exam. Sadler: The hearing will come to order.

M. M. STANALAND was thereupon called as a witness and having been first duly sworn, testified as follows:

Direct Examination by Mr. Taylor.

Q. Are you the same M. M. Stanaland who appeared and testified in this proceeding last March?

A. I am.

Q. You are.

Mr. Taylor: Mr. Examiner, I ask that these two books which I have here by marked for identification.

Exam. Sadler: The books will be marked Exhibits
1191 A-26 and A-27 for identification.

(The books referred to were marked Exhibits A-26 and A-27 for Identification, respectively).

Q. (By Mr. Taylor) Mr. Stanaland, I show you a volume of accounts marked Exhibit A-26 for identification, and I will ask you to state for the record what that book is, what those accounts therein contained represent?

A. This is the record of ledger record of the invoices for Moultrie Packing Company from February 1916 to April, 1917.

Q. Now, will you please explain more fully just what you mean by invoices?

A. I mean they were posted from the sales tickets of the Moultrie Packing Company, which were billed in my office, a copy of which was sent to the Moultrie Packing Company each day.

Q. Now, you have before you at the present time an account which is headed at the top "C. O. D."

A. That means cash sales, cash was received on that when sales—after the delivery was made it was entered as C. O. D. Account.

Q. Immediately after the date appears a name, what is that name?

A. That is the name of the customer to whom the products are delivered, or sold and delivered.

Mr. Horton: Mr. Examiner, may we have an objec-
1192 tion to all this testimony on the ground it is immaterial, irrelevant and incompetent, not pertaining to the issues?

Exam. Sadler: The objections will be noted.

Mr. Horton: May it be understood that that objection continues to the entire line of testimony in regard to the accounts in question?

Exam. Sadler: Yes.

Mr. Taylor: What was that answer?

(Answer read)

Q. And all of these customers received their things and paid cash on delivery, all the goods in this particular account?

A. Yes.

Q. Immediately after the name there is a column at the top of which is the word "Fol." in which figures appear, what do those figures relate to?

A. "Fol.", that refers to the serial number of the ticket, sales ticket; we did that in order that we might refer to each sales ticket.

Q. Now, will you please explain what you mean by the sales ticket?

A. That means the invoice.

Q. Where was that invoice made out?

1193 A. It was made out in my office in Atlanta.

Q. How was that used in connection with the sale?

A. Well, originally we made a duplicate copy of each invoice, the original was retained in my office as my record and the duplicate was mailed to the Moultrie Packing Company, Moultrie, Georgia.

Q. So that the Moultrie Packing Company had a record of each one of these transactions at that time?

A. I suppose they had, yes.

Q. I say, had at that time?

A. Yes, they had a record, I mailed them to them.

Q. Now, under the column "Debits" are certain figures, apparently representing dollars and cents?

A. Yes.

Q. What does that represent?

A. Represents the charge, the amount of the charge of each invoice.

Q. The selling price of the goods sold in each case, you mean?

A. Yes sir, that was the extension of the invoice, total amount of the invoice.

Q. Now, near the right hand side of the page there is a column headed "Items", apparently opposite each fig-

1194 ure, each account there is a small "C", what does that indicate?

A. That represents cash, cash received for those, each of those invoices.

Q. Now, under the column, "Date" here, are certain dates in there, what do those dates represent?

A. That is the date on which the cash was received.

Q. I take it the date at the extreme left hand margin of the page is the date when the goods were shipped out or ready for shipment?

A. Yes sir.

Q. Which would that mean?

A. What, on the left hand side?

Q. Yes?

A. That would mean the date upon which the goods were delivered.

Q. Please explain it is a day and sometimes two days would intervene on these C. O. D. items between the date on the left hand side of the page and the date on the right hand side of the page?

A. Well, that was probably due to the fact that we made deposits for the Moultrie Packing Company, and that was the date upon which we made the deposits, for instance, we could not finish running up our cash sales for the day, and it was deposited next day. Sometimes we probably skipped
1195 a day of deposits; that represents the date upon which the deposits are made to the credit of the Moultrie Packing Company.

Q. That is, the date on the extreme right hand side of the page represents the date of the deposit to the credit of the Moultrie Packing Company?

A. Yes.

Q. Now, turning over into the portion of this book that is divided into different letters of the alphabet, what do these pages represent? For instance here is a page headed "American Bakeries Corporation"?

A. They represent open accounts, that part of the ledger, I mean the books, with those different parties.

Q. Now, at the left hand edge of the page is an item for the date, the same as on the page we have just examined, what do the dates appearing in that column represent?

A. The dates on which the products represented by that invoice, particular invoice, were delivered.

Q. Now, under the column heading "Fol.", there are certain figures to what do they refer?

A. That represents the number of the—serial number of the invoice.

Q. The same explanation applicable as that which
1196 you made in connection with the C. O. D. accounts?

A. Yes.

Q. And the next item is "Debits", I assume that that is the amount at which the goods were charged?

A. Yes.

Q. Then follows an item headed credits; what do the items entered in that column represent?

A. They represent amounts paid on and for the account.

Q. What does the item on the extreme right, what does that represent?

A. Date upon which payments were made.

Q. And the column on the left hand side, near the left hand side of the page, headed "Items", what do those entries represent? Right hand side of the page, I mean?

A. Right hand side of the page? Why, they were—some of them represented cash. I notice some few items marked "M direct"; that means that the check was sent to Moultrie direct, to the Moultrie Packing Company direct, and they advised me to that effect and I made the credit.

Q. That is, sent direct by the American Bakeries Corporation, in this particular instance?

A. Yes.

1197 Q. Now, Mr. Stanaland, turning over to the account of E. L. Broad in this same volume, A-26 for identification, I call your attention to an entry in the column headed "Items", appearing on the right hand side, "C. M.", I will ask you what that signifies?

A. In that particular instance I dont recall; ordinarily C. M. would mean credit memorandum, for merchandise returned, but I dont know whether that one means credit memorandum or not. I could not tell without referring to my records on that date. C. M. means credit memorandum, or that an allowance was made on it.

Q. That would be so in any case?

A. Yes.

Q. Do you have in mind, Mr. Stanaland, any time that C. M. means anything other than credit memorandum, where it appearing in this right hand column headed "Items"?

A. No, I dont recall; I dont remember any instance, that is what it usually stands for.

Q. Now, Mr. Stanaland, I show you a book marked A-27 for identification, and I will ask you to state for the record what that book represents?

A. That is another ledger record of the Moultrie Packing Company from April 1917, to November, 1917.

1198 Q. When you say it is a ledger record of the Moultrie Packing Company, do you mean of all of the business transacted by the Moultrie Packing Company, or merely all of the business which you did as broker for the Moultrie Packing Company?

A. Business that I did as broker for the Moultrie Packing Company.

Q. And all of the items in those two volumes, do they represent sales made by you as broker for the Moultrie Packing Company?

A. Yes.

Q. As a matter of fact, did you represent the Moultrie Packing Company as broker prior to the date covered by either of these books?

A. Yes.

Q. Can you state whether or not these books represent the entire transactions which you had for the Moultrie Packing Company over the period which they cover in point of time?

A. No, I represented the Moultrie Packing Company previous to February, 1916, as well as I recall, all orders were sent direct to the plant; they were filled, packed and filled at the plant, I was furnished with copies of these invoices and statements each week.

Mr. Horton: I move to strike out that answer on the

1199 ground it is not responsive.

Exam. Sadler: The motion to strike will be noted.

Mr. Taylor: Yes, Mr. Examiner, it is not responsive, but I will ask the witness why it was that the transactions which he had with the Moultrie Packing Company prior to the time that is covered by these books do not appear in these or similar books?

A. Because the records were kept at the Moultrie Packing Company; on account of the fact that all orders were filled at that time direct with the plant, instead of being consigned in bulk to me in Atlanta.

Q. Well, will you please explain a little more fully how you took the orders and how the orders got to the plant?

A. I took the orders from my customers and sent them in to the plant to be shipped on a certain day, all in one car; they mailed me a copy of each invoice and I delivered each order to each customer.

Q. And the collections were made by the Moultrie plant direct?

A. No, I made the collections and deposited it to the credit of the Moultrie plant.

Mr. Taylor: Now, Mr. Reporter, please read my original question to the witness.

(Question read as follows:)

1200 "Q. Can you state whether or not these books represent the entire transactions which you had for the Moultrie Packing Company over the period which they cover in point of time?"

A. I think that covers all between those dates, as far as I know it does.

Q. Then your answer will be you think this is complete since February 28, 1916?

A. Yes.

Q. Mr. Stanaland, are you willing—are these part of your records, of the records of your office?

A. Yes.

Q. Were these accounts entered at the time the various transactions were had?

A. Yes, during the course of business, they were entered; of course, they may not have been entered on the same day, but they were—

Q. They were entered in the regular course of business?

A. In the regular course of business.

Q. These were the regular books of account kept by you at that time in your business?

A. Yes, I kept those books at the time.

Q. You kept correct books of account, did you, at that time?

1201 A. Yes, I think those records are correct; they were kept against a similar set of books with the Moultrie Packing Company, they were supposed to have a similar set of books in their office at Moultrie.

Q. Was all of the information which was in these books forwarded by you on to Moultrie?

A. I did not understand the question.

Q. Please read the question.

(Question read)

A. All of the—a duplicate copy of each invoice was forwarded to Moultrie, also a copy of the remittance, that is, collections made and deposited to the credit of their account in the bank, were forwarded to Moultrie.

Q. Now, just what did these invoices show?

A. What did these invoices show?

Q. Yes?

A. They showed each item sold and delivered.
Q. Do they show to whom it was sold and delivered?
A. Yes, and the address, usually the address.
Q. And the amount of the item in dollars and cents?
A. Yes.
Q. And the date.
1202 A. The date.
Q. Now, I will ask you, Mr. Stanaland, if you are willing to permit these books to be received in evidence and kept in the custody of the Federal Trade Commission until such time as the case may be passed upon by the commission, and in case it is appealed to the court?

A. Well, of course, if you have got to have the records—of course, they are records of my business; if anything should come up about it, I would naturally like to have it to refer to; it is a permanent record with me; if anything should come up about it; of course, it may not—as far as I know my records are absolutely clear with the Moultrie Packing Company, but to remove those permanent records from my office—of course you can take them if you want them, but I really would rather keep them in my office; but if you have got to have them, there is nothing else to do but take them.

Mr. Taylor: Mr. Horton, without waiving any objections which you have already made, or any which you may have to make in the future in regard to these books, I would like to ask you if under the circumstances you will be willing to have a summary of these books offered in lieu of the books? Under the circumstances I am rather loath to ask Mr. Stana-
1203 land to part with them, although personally I should prefer to have the books themselves rather than any summary of them. It is simply for the purpose of getting your views on the subject that I ask you this question, and your answer to it, of course, will be without prejudice to your objections.

Mr. Horton: Mr. Taylor, I would like to investigate the matter further, look into the books and do a little checking; I have no doubt that we could arrive at a solution that will expedite matters, but yet preserve the necessary features of the evidence.

Q. I will ask you, Mr. Stanaland, then, if you are willing to let us have the books, with the understanding that if we can arrive at some feasible plan for getting a summary of the contents in the record in lieu of the books, that we will; in case we are absolutely unable to arrive at such conclusion, then the books themselves shall be offered as exhibits, and if taken

as exhibits will be kept until such time as the Commission and the Court may pass upon the case, and the books then returned?

A. Yes, I have no objection to your using the books, as far as that goes.

Mr. Taylor: In that event, Mr. Horton, I will not offer these now, but I will ask to reserve that right until later, but in the meanwhile you may cross examine as to the books
1204 to the full extent that you would if they were offered in evidence at this time, if that is satisfactory to you.

Mr. Horton: That is very satisfactory.

Cross-Examination by Mr. Horton.

Q. Mr. Stanaland, is it correct to say that one of these books is a transfer ledger, it is where old accounts are transferred in?

A. Look at the account—before I answer that question, look at the account of J. T. Bell, 127 Cherokee Avenue there. I would say that this is a transfer ledger, but it covers same period as answered in my previous answer.

Q. Properly speaking, this is a transfer ledger into which the sheets that you have no more use for were transferred?

A. Yes, at that time.

Q. You are referring to Exhibit A-26 for identification?

A. Yes sir.

Q. I notice that this ledger shows some of these accounts to be active and open down into October and November of 1917; you were handling the Moultrie product right up to that time, were you?

A. Yes.

Q. Now, I notice the account of Forrest Brothers in
1205 one of the ledgers that you have evidently had to sue to collect the money, and then you did not collect it?

A. No, they went into bankruptcy.

Q. Now, in a case of that kind, who would stand the loss, you or the Moultrie Packing Company?

A. The Moultrie Packing Company.

Q. Did you have other accounts that were not collectible?

A. Very few; there was probably some other accounts, but I dont recall them right now.

Q. Here is the account of Beacham Brothers?

A. Who?

Q. Beacham Brothers?

A. Yes.

Q. The last sale shown here is on January 19th.
A. January 19, 1917.
Q. 1917.
A. Yes.
Q. Do you know why you stopped selling them?
A. No, I dont know.
Q. W. E. Besser?
A. Yes.

Q. Only two items in the account, one on December
1206 13th 1916 and one on December 18th, 1916, do you recall why you stopped selling them?

A. I have never been able to sell that party except at times, I dont know why it was.
Q. Didnt you give him a cheap enough price?
A. What say?
Q. Offer him a cheap enough price?
A. I dont recall at the time, I cannot say one way or the other.
Q. Now, the bills receivable account there, an item here dated January 22nd, 1917, Mrs. G. A. Baldwin, demand $100?
A. Yes.
Q. On the opposite side, credits received $70. Does that relate to the Moultrie business?
A. Yes, I guess it does, as well as I recall.
Q. What was that?
A. That was a note that was given for her account, as well as I remember.
Q. That is, it is where she was behind, did not pay up, finally gave a note?
A. Yes, finally gave a note. I think her husband dies, first, I know her husband died, as well as I remember.

Q. Here is—also on bills receivable—there is some
1207 notes due from M. Mandele and C. Mandele?

A. They went into bankruptcy.
Q. Did you lose money on that account?
A. We lost some, not a great deal; it was not a very large amount.
Q. (By Mr. Taylor) Does the account there show the amount?
A. Yes.
Q. (By Mr. Horton) Also the account of E. L. Adams & Company, the last sale is in April, 1917, do you recall why you stopped selling them?
A. E. L. Adams? Why, those were wholesale grocers here in town, I possibly sold them some; why, I dont recall just

what I did not sell them any more, maybe I didnt have my price cheap enough, I dont know what it was, it may have been the lard was too soft, I could not say what it was.

Q. Did you do what might be termed a wholesale business, too as well as selling to retailers?

A. Yes, I usually had a jobber's price; I went to the wholesaler as well as the retailer.

Q. Would you sell to any of the people here in town that wanted to buy at the jobbing price?

A. Well, yes, of course if a man bought a sufficient
1208 quantity, I usually made the concession.

Q. Better price?

A. Yes sir.

Q. Would you sell to the packers, like Wilson & Company?

A. Yes, I have sold some to the packers.

Q. In considerable quantities?

A. Why, I dont recall whether it was in considerable quantities or not; you might turn to Wilson & Company account; I think there is an account there with them; this has been some time, I dont recall exactly.

Q. Evidently sold them in carload lots?

A. No, not necessarily; I was delivering them from stock here, I hardly think that I sold them carload lots; I think they did pick me up on some pure lard there one time, when the price went up; I think it is about the last item on there; I have forgotten most of them.

Q. Would you give him a better price than you would give to the retailers?

A. I dont recall; as a rule I did, I had to, in order to sell them.

Q. What price, how much less?

A. Well, sometimes—usually around a cent a pound.

Q. Sometimes less than that?

1209 A. Maybe less than that.

Q. Sometimes more than that?

A. Well, sometimes more than that; depends a good deal on the market, whether the market was advancing or whether the market was declining.

Q. On a declining market you would be inclined to give them a better price?

A. If it was apparent that there was going to be anything like a pretty heavy decline.

Q. Did you ever sell to Swift & Company?

A. I dont remember; let's refer to the account; no, I dont think I ever sold to Swift & Company.

Q. (By Mr. Taylor) How about the period prior to these books, have you got any recollection as to that?

A. No, I dont recall ever having sold them at all.

Q. Well, there were some sales to Swift & Company came in in a car which you had since that, by the plant?

A. Well, it was probably billed from the plant, it was not billed by my office.

Q. That is what I mean; of course that would not appear in this record.

A. No, it would not appear on the record.

1210 Q. (By Mr. Horton) Well, there is not any reason why—there is not any reason that you know of as to why you would not have sold to Swift & Company the same as you would to any other large dealer?

A. None at all.

Q. You would have given them the same price you would have given any other large dealer?

A. Yes.

Q. I notice in 1916 you made some sales to Morris & Company?

A. Yes.

Q. You gave them the jobber's price?

A. I suppose I did, I dont recall at the time, I usually did.

Q. (By Mr. Taylor) Would the size of the sales have anything to do with the price they got?

A. Yes, as a rule that was true.

Q. (By Mr. Horton) If they bought it in carload lots, you would be willing to give them a price under what you were selling to retailers?

A. Well, if they bought in carload lots, I usually submitted the price to the plant of the Moultrie Packing Company.

Q. Have you know of such cases?

A. What say?

1211 Q. Were there cases where you sold it in carload lots?

A. Yes, I think so, that did not go through my records here, though.

Q. That would be outside of these records?

A. That would be outside of these records, yes.

Q. (By Mr. Taylor) Would it be within the same period of time that is covered by these records?

A. Possibly so, yes.

Q. That was a direct shipment, though?

A. It was a direct shipment, billed by the Moultrie Packing Company direct, and I would receive a small brokerage on the car shipped direct.

Q. (By Mr. Horton) A smaller brokerage?
A. A smaller brokerage, usually, yes.
Q. How much smaller, what would the brokerage be on that?
A. It is usually one per cent.
Q. One per cent of the price?
A. Yes.
Q. One per cent of the invoice?
A. One per cent of the total amount.
Q. Of the sale?
1212 Q. That is to say, if the carload sold for $2000, you would get $20?
A. $20, yes.
Q. I notice here the Atlanta Flour & Grain Company, the last sale to them was in June, 1917, do you recall why you quit selling that firm?
A. Possibly due to the fact that the weather was too hot, and the lard as a rule was rather soft; it did not stand up very good in hot weather.
Q. B. & B. Grocery Company, last sale to them was on March 9th, 1917, do you recall why you stopped selling that firm at that time?
A. I dont recall exactly, but I am of the impression that—I withdraw that answer; I dont recall.
Q. C. B. Barnhart, the last sale made to him was June 6, 1916, I would judge?
A. Yes.
Q. Do you recall why you stopped selling him?
A. Yes, he would not pay, he did not pay.
Q. I show you here—I call your attention to his account; it would seem to me that the sales were small; didnt he have a big market?
1213 A. No, not very; he was at 26 South Broad street.
Q. That is down in the city here, isnt it?
A. It is in the city but it was not a very large market.
Q. Down near Kistner's market?
A. No, it was beyond Kistner's market; it was near where the Sanitary markets are now, but at that time it was not a very good market section of the city; he never made a success.
Q. Do you recall why you was not able to sell him more goods?
A. I did not want to sell him very much.
Q. I notice the account of L. L. Brandon Market Company, the last sale made to them was in December, December 11, 1915?

A. Yes.
Q. Do you recall why you did not sell—
A. They would not pay that bill; I did not sell them any more stuff, did not want to sell them.
Q. That was one bill you never did collect?
A. Never did collect.
Q. Here is Bray & Speights?
A. Yes.
Q. I notice you made one sale to them, three dollars, the last sale was made February 16th, 1917; do you recall why you did not sell that firm?
1214 A. I was never able to collect the balance due there.
Q. Was that balance due ever collected?
A. Never collected. They went out of business some time after that was sold.
Q. Here is the account of Brogden & Thompson?
A. Yes.
Q. Last sale to them was on May 10th, 1917, do you recall why you discontinued selling that account?
A. No, I dont recall.
Q. Here is the account of Buchanan-Shelton Grocery Company, the last sale was made on March 9, 1917?
A. Yes.
Q. Do you recall why you discontinued selling that account?
A. No, I dont recall.
Q. What is your idea on it?
A. Well, I was never able to sell Buchanan Shelby Company very much stuff; I am not able even now to sell them very much.
Q. (By Mr. Taylor) What kind of stuff are you handling now?
A. Western meats.
Q. That kind that is called firm pork?
A. Yes.
Q. (By Mr. Horton) Do you know why that is, Mr. Stanaland?
1215 A. What is that?
Q. What reason do you ascribe for it?
A. Maybe he doesnt like to trade with me, I dont know.
Q. W. A. Byers; I notice the last sale made to him is in December, 1916, do you know why you discontinued selling that account?
A. He was too slow in payments.
Q. Well, he paid that bill on January 16th?

A. He bought it on December 18th, too; our terms were weekly.

Q. Part of it December 20th?

A. Yes, but our terms were weekly.

Q. I notice the account of Ed L. Campbell, the last sale is on April 7, 1917, do you recall why you stopped selling them?

A. As well as I recall he discontinued business at that address at that time; in fact, I think he discontinued business prior to that time; he is not in business here in Atlanta now, except as a peddler.

Q. I notice the account of the Camp Grocery Company, the last sale to them is on November 9, 1916?

A. They made—they either went into bankruptcy or made a composition settlement; I think they went into bankruptcy, and they never opened up any more.

Q. Is that an account upon which you lost some money?

1216 A. There was a small amount lost there; there was something between four and five dollars.

Q. I notice this book is in apparently several different handwritings, did you keep it altogether, Mr. Stanaland?

A. Oh, I had two or three— I had one or two bookkeepers to keep the books at times; I did some of it myself.

Q. I notice the account of Chelema and Cefalu?

A. Chelema & Cefalu Market Company.

Q. Did you regard them as one of your good customers?

A. Yes.

Q. I notice the last sale you made to them was on April 30th, 1917, do you recall why you stopped selling?

A. I think they got in bad circumstances, well as I recall, at that time.

Q. I notice you have an item on the credit side, attorney's fees, five dollars?

A. Yes, I think, as well as I remember, that that account went in the hands of an attorney.

Q. Is that one of the accounts on which you lost money?

A. I dont think we lost any money on it, I think they finally paid it; I dont remember fully in regard to the account, I know Mr. Chelena has quit business at the present time;

1217 possibly we did lose some money on it, I dont recall.

Q. You lost $75 on the account?

A. I dont recall, I think we did, I am not sure, it was put in an attorney's hands, I dont recall just how the thing finally worked out.

Q. The City Market Company, the last sale to them is on

May 16th, do you recall why you stopped selling that account at that time?

A. No, I dont recall.

Q. Colonial Cash Grocery bought one order from you on December 16th, 1916, do you recall why you did not sell them any more?

A. No, I dont remember.

Mr. Taylor: I call your attention, Mr. Stanaland, to the fact that that one item was not paid until January 13th, would that have anything to do with it?

A. Yes, if it ran over thirty days, I usually declined to sell them altogether after that.

Q. (By Mr. Horton) Cooper Grocery Company, the last sale to them was on March 2nd, 1917, do you recall why you discontinued selling that account?

A. No, I dont remember the account; I never worked the suburban towns so very closely, and that possibly was
1218 one of the reasons, another reason was that they usually wanted me to pay the express to suburban towns on their products out there, and I had no authority to do so.

Q. (By Mr. Taylor) Where were they located, Mr. Stanaland?

A. College Park.

Q. (By Mr. Horton) E. J. Costly, the last sale was made to him on May 15th, 1916, do you recall why you discontinued selling that account?

A. No, I dont recall; I never did sell E. J. Costley very much stuff, and I am not selling him much now.

Q. (By Mr. Taylor) Mr. Stanaland, I direct your attention to the fact that the bill was not paid for until January 2nd—June 2nd, I should say?

A. Well, that might not have had anything to do with it; as a rule we did not let them run, but I knew him very well, and I would have made some allowance for his to run; any other bill I cut them off when they ran over thirty days; I did not have authority to carry them.

Q. (By Mr. Horton) Wouldnt you cut them off until they paid up, and if they paid up, wouldnt you start selling them again?

A. Well, if they wanted thirty days, I didnt have any authority to carry them that length of time.

1219 Q. But after they paid up you could sell them again?

A. Well, if they wanted to pay weekly I could have.

Q. Yes. Well, now, these suburban accounts, did you say they wanted you to pay the express on them?

A. Yes sir.

Q. Somebody has to pay the express on them if they sold them, didnt they?

A. Well, yes, that is true.

Q. It all comes out of the price, you add it onto the price of the goods, dont you?

A. I usually had one price as near as I could possibly carry it, except of course to the jobber.

Mr. Horton: I move to strike out that answer as not being responsive.

Mr. Taylor: Now, Mr. Examiner, I think that is very decidedly responsive.

Exam. Sadler: The motion to strike will be noted.

Q. (By Mr. Horton) Do you wish us to understand that you would not add the express onto the price of the goods and sell it out to the suburbs?

A. Well, I didnt do it at the time.

Q. You wish us to understand that you didnt want
1220 to do it, it was not your way of doing business.

A. Well, if I add the express, it was usually put down as express on the invoice, in fact, that is the only way I am selling them now, is to bill out the goods at a certain price and then at the bottom of the invoice, I would add up the—whatever the express charges amounted to; if I prepaid the express charges.

Q. You wish us to understand then, that you did not want to add anything to the price of the goods to cover the cost of transportation?

A. I always find it more satisfactory to bill to a man the other way, let him understand what he is paying for it.

Q. You dont want to do it, adding transportation charges onto the cost of the goods?

A. I prefer not to do it that way.

Q. You prefer not to do it?

A. Yes sir.

Q. That is the way you want your answer understood?

A. Yes.

Q. How did you do it on these accounts that you sold out to College Park?

A. How did I do it?

1221 Q. Yes?

A. I added the express to the invoice, it was added into the total amount of the bill.

Q. How are you doing it now, on your suburban business?

A. The same way.

Q. I call your attention to an account of Drewery—
A. M. L. Drewery?
Q. Yes.
A. College park.
Q. Last sale to him was on June 9th, 1917, why did you discontinue selling that account?
A. Oh, we were getting along at that time where it was getting most too hot for him to handle very much stuff; I dont recall the products I was selling him, but if it was fresh pork business, he was not using as much fresh meats, and some of those grocery stores who had markets in there in their stores discontinued their markets along at that time.
Q. How about this man, do you know that he discontinued?
A. I dont recall whether he did or not.
Q. (By Mr. Taylor) You mean by that, Mr. Stanaland, that he did not have refrigeration and could not keep the goods in the summer time?
1222 A. Oh, yes, he would have refrigeration, but as anybody who has been in the packing house game knows, there is very little money made during the summer months, especially June, July and August, in the market department.
Q. (By Mr. Horton) Did your customers take more kindly to your goods in the winter time than they did in the summer time?
A. Oh, no, they got the firmer stuff in the summer time, liked it better as a rule.
Q. You mean western pork?
A. Western pork, yes; we get some firm pork from the south, but Georgia runs principally to the peanut hog, soft hog.
Q. Soft hog?
A. Soft hog.
Q. What account did you get after you discontinued handling Moultrie products?
A. The Tifton Packing Company.
Q. Did you bring that product in?
A. Yes.
Q. When did you discontinue handling that account?
A. Didnt understand the question.
Q. When did you discontinue handling that account?
A. The Tifton Packing Company?
1223 Q. Yes?
A. I think it was, as well as I recall, it was in June, 1919.
Q. All the time between the date you got that account and

the date you discontinued, you were bringing that pork to the Atlanta market and selling it?

A. I didnt understand the question.

Q. While you were handling the Tifton Company you were selling the product on the Atlanta market?

A. Yes.

Q. Then what account did you get, after Tifton?

A. Macon Packing Company.

Q. How long did you continue with that?

A. Handled that about a year.

Q. Up until about 1920?

A. 1920.

Q. Then what happened?

A. I dont know what happened; the Macon plant closed down.

Q. Do you know why it was closed?

A. I dont know; it was owned, as I understand it, by the Allied Packers, something like that; I suppose they closed because they were not making money; I dont know of any other reason, merely supposition on my part.

1224 Q. Then what company did you get?

A. The Sinclair Sales Company, Cedar Rapids, Iowa.

Q. Are you handling that account now?

A. Yes.

Q. Is that the only account you have?

A. Yes, that is the only account I have.

Q. Do you handle any of their merchandise besides meats?

A. They dont carry any other.

Q. I mean do you as broker?

A. A little stuff, meats and produce, that is, the produce line, in the way of cheese, butter and some eggs.

Q. Carrying flour or not?

A. I have some flour, not a great deal.

Q. When you were handling Moultrie products, did you handle that account exclusively, or did you have other lines?

A. I handled that account exclusively.

Q. Now, you had no other lines, at all?

A. Had no other lines at all.

Q. No flour, no produce?

A. No.

Q. Butter or eggs?

A. No, nothing of that kind.

1225 Q. Nothing of the kind?

A. I didnt have the facilities to take care of it.

Q. Did you have a cooler at that time?

A. I have—I had a very small cooler, ice cooler, ice box, you might say, that I usually carried some of my stuff, put a certain quantity in it, but I sold a great deal of my stuff from the car.

Q. How would you handle those cars when they came in, would you unload the car and deliver the goods to the consumer, or would you take it to the house?

A. Why, I sent my orders into the Moultrie Packing Company, and they filled my orders there; in other words, they packed the items and they billed them all from the plant; then when they came in, they sent me a duplicate invoice; I delivered according to that invoice; afterwards they were very slow in getting their statements and all to me as I wanted them—

Q. Afterwards? After what time?

A. Along after—I think it was January, but I am not sure.

Q. January of what year?

A. January 1916.

Q. Go ahead.

A. Then I began to bill on their invoices; they sent 1226 me their invoices; I billed to the customer on that.

Q. What I am getting at is as to how soon you delivered the stuff at the market, how soon you delivered it to your customers?

A. Usually right away; in other words, as soon as it arrived.

Q. You unloaded the car, took it into your warehouse, put it on your wagon and took it out to the customer?

A. Yes.

Q. What facilities did you have for delivering to your customers?

A. I had a truck?

Q. Automobile truck?

A. At first I had a dray, and then I had an automobile truck afterwards.

Q. One truck?

A. Just one truck.

Q. Now, when you represented the Tifton Packing Company, did you have a cooler then?

A. How is that?

Q. When you represented the Tifton Packing Company, did you have a cooler then?

A. Yes.

Q. You had additional facilities put in, did you not?

A. Yes.

1227 Q. You still have the cooler now?

A. Yes sir.

Q. Are you selling fresh pork in the market now, Mr. Stanaland?

A. Yes sir.

Q. And the full line of packing house products?

Mr. Taylor: Mr. Examiner, I object to that, no part of the cross examination, irrelevant; the testimony will show that he was cross examined on this before.

Exam. Sadler: The objection will be sustained.

Mr. Horton: I think that is all.

Redirect Examination by Mr. Taylor.

Q. Mr. Stanaland, I desire to call your attention to the fact that the letters which you received advising you that your relation as broker was not to continue any longer with the Moultrie Packing Company, was along in the latter part of October, I think about the 26th, and you have sales here as late as the 8th of November. I will ask you to explain how that was?

A. Well, at the time they sent me that letter, discontinuing, I had a certain amount of products on hand, and they requested, as well as I remember, that I close out what products I had on hand; there was some of those products

1228 that were left on hand at the time, possibly lard, cured meats, I dont recall just what it was.

Q. Now, when you took the Tifton account, did you sell the Tifton pork to substantially all of your old customers here, is it your recollection?

A. Practically the same.

Mr. Horton: Just a minute, please, I move to strike that out, your Honor, on the ground it is irrelevant to the issues; second that there are records which will show:

Q. You have the records, havent you, Mr. Stanaland?

A. What say?

Q. You have a ledger account of your customers with the Tifton Packing Company?

A. Have a ledger account?

Q. Have you a record of the customers you sold to while you were handling the Tifton Packing Company?

A. Yes, I havent it with me.

Mr. Horton: I move to strike it out.

Exam. Sadler: The motion to strike will be noted.

Mr. Taylor: Well, I will say that if counsel for the re-

spondent desires, I would be very glad to ask for a subpoena for the records showing the Tifton plant; I hardly
1229 thought it was of sufficient value to justify proceeding along those formal lines. I recognize the fact that counsel has the right to demand the best evidence.

Mr. Horton: If you noted the grounds of my objection, you noted that I also make the objection that it is immaterial.

Q. (By Mr. Taylor): Now, Mr. Stanaland, several of the witnesses produced by the respondent here have testified—

Mr. Horton: Just a minute, please, I object to this question as being improper redirect examination and as not being brought out in the redirect examination of the witness.

Mr. Taylor: Mr. Examiner, I think that counsel for the respondent is laboring under a misapprehension as to the circumstances under which the cross examination was conducted; I think if you will refer back to the record, it will appear that I stated that he might cross examine as to these books; I did not at that time intend to state that I had fully finished my direct examination; in fact, I had no intention of suspending the whole of my direct examination at that time; I did not understand that the cross examination would go beyond the books.

Mr. Horton: I misunderstood you, Mr. Taylor, I did not understand it that way, I understood you had finished your direct examination.

1230 Mr. Taylor: No, I did not so intend it. I think the record will show I limited my offer of cross examination to these books.

Exam. Sadler: The objection will be noted.

Mr. Taylor: How far did I get on my question?

(Question read)

Q. (Continuing) —that there were not more than five per cent of the regular dealers, meat dealers in Atlanta handling soft pork; I will ask you what your observation is as to the condition at the present time with respect to the same matter?

Mr. Horton: Now, just a minute, please, Mr. Stanaland. I object to this, your Honor, on the ground that it is incompetent, immaterial, irrelevant; the witness has not shown that he has any knowledge of the fact; on the ground that his observations are not germane to the issues here. It is altogether improper rebuttal.

Exam. Sadler: The objection will be noted.

A. Read that question, please.

(Question read)

A. I would say that that would be—from my observation, that about five per cent is about right.

Q. That is, at the present time?
A. At the present time.
1231 Q. Five per cent at the present time?
A. Yes sir.
Mr. Taylor: That is all.
Mr. Horton: That is all.
Exam. Sadler: The witness will be excused.
(Witness excused.
Mr. Taylor: That is all we have.
Exam. Sadler: We will adjourn to Jacksonville, Florida, to Tuesday, July 5th, at the Federal Building, room to be designated later.

(Whereupon, at 5:00 o'clock P. M. June 30, 1921, an adjournment was taken to the Federal Building, Jacksonville, Florida, at 10:00 o'clock A. M. July 5th, 1921).

1236 P. J. SAUNDERS called as witness for respondent at Jacksonville, Florida, July 5, 1921, after having been sworn, testified in substance as follows: (PP. 2855-2860)

That he is Vice-president of the P. & O. Steamship Company in charge of purchasing of meats and meat products, and has been for the past seven years; that his office is in Jacksonville, Florida, where he purchases for the entire line of boats; that purchases of meat products amounts to approximately $110,000.00 per year; that he buys both beef and pork products; that he is familiar with what is known as soft and oily pork and that he does not use it in his business and always specifies Western hard pork; that he considers oily pork inferior to firm pork; that he does not use Southern beef, but in both beef and pork he demands Western meats; that his meat bids are open to competition from all the houses in Florida, Cudahy, Kingan, Swift and Armour; that Armour, Swift, Smith Richardson & Conroy, and Kingan & Company are trying to get his business; that he sends out bids every 60 days for his requirements for the following 60 days, and those firms make their bids, and in addition, a salesman comes around to see him, or telephones about every 60 days; that he awards the contract to the lowest bidder.

Cross-Examination.

That he has never had any dealings with the Moultrie Packing Company.

1237 B. A. MURPHY called as witness for respondent at Jacksonville, Florida, July 5, 1921, after having been duly sworn testified in substance as follows: (pp. 2861-2865)

That he is engaged in a general line of merchandise, handling meat in connection with his business as a retailer; that he has been in this business about twenty three years in Jacksonville and Atlantic Beach; that he does not handle meats in his Jacksonville store; that Atlantic Beach is a suburb of Jacksonville; that the principle meat products that he handles is pork loins; that he handles mostly Western meats, because he always always asked for the best; that he purchases mostly from Swift & Company; that he has bought from Armour & Company, Wilson & Company and Smith-Richardson & Conroy Company.

1238 W. M. BAKER called as witness for respondent at Jacksonville, Florida, July 5, 1921, after having been duly sworn testified in substance as follows: (pp. 2865-2870)

That he is the same Mr. Baker who testified in this case before—last March; that from his observation there has always been a certain spread between Southern pork, soft pork, and the Western pork, generally 2¢ to 5¢ per pound; that this was true last winter and that he was able to get all the Southern and Western pork he wanted during the past winter.

1239 J. H. WEISENFELD called as witness for respondent at Jacksonville, Florida, July 5, 1921, after having been duly sworn testified in substance as follows: (pp. 2870-2874)

That he is the same Mr. Weisenfeld who testified in this case before in March; that he bought meat from Sam Smith when he was representing the Moultrie Account and at the same time he handled Western meats; that he has continued to handle Southern meats—soft pork, and has purchased it from Swift & Company; that he prefers to buy it from Swift & Company, because during the time he bought from Sam

Smith the stuff was rough packed, unfrozen, and did not come to him in good shape, but now it is wrapped up nice, has good weights, and comes in frozen; that he is almost compelled to handle frozen meat in Jacksonville.

Cross-Examination.

That he never told Mr. Smith that the Moultrie goods were not in good shape; that he has learned something new since that time in regard to packing that stuff; that Swift & Company is putting it out like he never dreamed it could be put out; that he has always been able to get soft and oily products in the Jacksonville Market.

1240 J. A. GIES called as witness for respondent at Jacksonville, Florida, July 5, 1921, after having first been duly sworn testified in substance as follows: (pp. 2875-2878)

That he is engaged in the business of operating a retail and wholesale meat market in Jacksonville and has been for a period of 4½ years, having started January 1, 1917; that he has handled Western and Florida pork and also soft and oily pork; that he purchased meats from Sam Smith when he was handling the account of Moultrie Packing Company; that he purchased pork and pork products including hams and bacon from Smith; that he has bought similar products from Swift & Company; that during the last year or two, the pork he bought from Swift & Company—he did not know whether it came from Moultrie or whether it is Florida or Georgia pork —came in good shape in mighty fine condition; that it comes in better shape now than it did when Sam Smith sold it to him.

Cross-Examination.

That he never complained to Sam Smith about the pork bought from him as being unsatisfactory.

1241 F. M. HULL called as witness for respondent at Jacksonville, Florida, July 5, 1921, after having first been duly sworn testified in substance as follows: (pp. 2878-2903)

That he is manager for Morris & Company Branch House, Jacksonville, and has been for about four weeks; that prior to going with Morris & Company, he was with Florida Provision Company for a period of six years; that the Florida Provision Company and the Harmon Hull Company, its successor, handled meats during all the period of time he was with that concern selling to the retail trade in Jacksonville; that in a way the Florida Provision Company represented the Evansville Packing Company, that is, they bought from the Evansville Packing Company; that he bought also from Cudahy Packing Company, Swift & Company and all the packers.

That he is familiar with market conditions in Jacksonville; that the following companies were represented and selling full line of packers products: Cudahy Packing Company, Swift & Company, Armour & Company, Kingan & Company, Moultrie Packing Company for a while, Chipley Packing Company, Chipley, Florida, Tifton Packing Company, Wilson & Company, Smith Richardson & Conroy; that Swift & Company, Armour & Company, Morris & Company, Cudahy Packing Company, Wilson & Company, Kingan & Company have branch houses and have been in Jacksonville for a number of years; that the Jacksonville Cattle Company has a slaughtering plant located near Jacksonville.

1242 That the following brokers were located in Jacksonville selling a packing house line: Wilson & Parker, representing North Packing Company, the Cleveland Packing Company, Saussy & Company, representing the Wilson Provision Company, Peoria, Illinois, and J. P. Squires of Boston, Massachusetts, Hulsey-Besant, representing Klink Packing Company, Buffalo, and Dold Packing Company, Buffalo, and others including Cross-Roy-Saunders of Chicago, George A. Hormell & Company, Austin Minnesota, Sahlin Packing Company; that these brokers have been in business for a number of years in Jacksonville; that in addition Hately Brothers of Chicago sell to the jobbers and retail trade in Jacksonville and O. C. Holland & Company of Montgomery Alabama, and International Packing Company, and the St. Louis Independent Packing Company are represented on the Jacksonville market; C. W. Zaring & Company represents Comstock &

Company, Providence R. I. and O. H. Wright & Company of Atlanta, Georgia quotes jobbers in Jacksonville Florida.

That there has been keen competition in the Jacksonville market every since he has been there; that he thinks competition is keener now than it ever has been before; that it is getting keener and keener, and it is hard to do business each year; that he did not notice any change in competitive conditions in June and July of 1917 or in November 1917, or March and April of 1918.

1243 That he is able to form a rough estimate of the number of pounds of pork products that were sold in the Jacksonville market in July 1916 to July 1917, based upon what he was doing himself and that he would estimate it at about 40,000,000 lbs.

1244 D. A. DUNAWAY called as witness for respondent at Jacksonville, Florida, July 6, 1921, after having first been duly sworn testified in substance as follows: (2904-2913)

That he is the same Mr. Dunaway that testified in this case in March and he is engaged in retailing meat and purchased meat from Sam Smith; that he has also purchased meat from Swift & Company, including beef and pork, Western pork, in the winter time, soft and oily pork; that he bought soft and oily pork from Sam Smith in the winter time; that Swift & Company put out soft and oily products more uniform than when he bought it from Sam Smith.

When asked the question, "How about the grade", witness replied, "I believe—I don't know that the change has anything to do with it but the times have changed. We get a better grade of pork because people are raising better hogs, taking more pains with it"; that when he buys pork loins he likes to have them uniform, 6/8 or 8/10 as he wants it; that is the only difference that he can see; that he is satisfied with the way it comes now.

That his business in 1917 and 1918 was quite a little better than it is now, for the reason that every man that worked was getting more money and there were more positions open than there are today.

1245 M. F. McCOOK called as witness for respondent at Jacksonville, Florida, July 6, 1921, after having been duly sworn testified in substance as follows: (pp. 2913-2945)

That he is branch house manager for Armour & Company and has been since September, 1920, but prior to that time he was a salesman for the Jacksonville branch of Armour from 1908 to January 1918 when he became assistant Branch House Manager; that Armour & Company sells full line of packing house products including both Western and Southern pork; that in calling on the trade he comes in contact with salesmen of other concerns (witness then listed his competitors in the Jacksonville market, this listing being substantially the same as that furnished by witness Hull, supra).

That competition has always been very keen and active and there has always been several representatives to get every order; that his experience has been that Southern pork products can be sold at a differential under Western stock running from 2¢ to 5¢ per pound; that it takes a great deal more of a salesman to sell Southern pork, even at a differential than it does the Western; that it sells a good deal more readily in the winter time than it does in the summer time.

1246 A. J. BUIST called as witness for respondent at Jacksonville, Florida, July 6, 1921, after having been duly sworn testified in substance as follows: (pp. 2945-2967)

That he is the local manager for the Cudahy Packing Company and has been for about seven years; that the Cudahy Packing Company sell everything in the line of packing house products; that it has had a branch house in Jacksonville for about twenty years; that the business of Cudahy Packing Company in 1918 showed an increase over 1917; that Cudahy business in Jacksonville in 1919 was larger than in 1917.

That in selling meat and other packing house products for Cudahy Packing Company he finds that there are other people in that market engaged in the same activities—(witness then testified as to other concerns selling packing house products in Jacksonville and this list is substantially the same as that furnished by witness Hull, supra).

In addition James Chamblis Company, local slaughter and

wholesaler; Krull of Baltimore; Jones-Lamb of Baltimore; Ferris & Company, local slaughter and wholesalers; Jacksonville Packing Company, local slaughters and wholesalers; Brennan Packing Company Chicago; Hammond Standish, Detroit, ship occasionally into Jacksonville.

That competitive conditions now are keener than they ever have been—been getting keener every year during past seven years; that from his observation and experience the years 1917, 1918, 1919, 1920 showed a steady increase in busi-
1247 ness; that a camp was located at Jacksonville during one year that made business a little better; that ship building industry at Jacksonville assisted in the increase in business, because they employed more men and spent more money and made conditions better; that wages were higher when the ship yards were there; that the ship yards were located at Jacksonville during the war.

That his firm sometimes handled soft and oily pork products and may have bought some from Sam Smith and from other local packers through brokers.

Cross-Examination.

That when he was testifying as to competitive conditions and that each year there seemed to be an increase of sales, that he referred only to business conducted by the Cudahy Packing Company and that the sales of that company had been increased from year to year; that he has no knowledge as to what any other concern was doing.

1248 J. W. BRICE called as witness for respondent at Jacksonville, Florida, July 6, 1921, after having been duly sworn testified in substance as follows: (pp. 2967-3013)

That he is the same Mr. J. W. Brice who testified in this case when the hearing was held in March, 1921, and that he is the manager of the local branch house of Swift & Company of Jacksonville, Florida and has been since 1909; that Swift & Company handles the entire line of packing house products and produce with coolers, freezers, and modern equipment for handling all kind of meat products; that he employs 8 salesmen who work on the trade in the city of Jacksonville and coast line south to Stewart and southwest to Sanford and Lusburg and down the coast line and seaboard to Ocala, Donel-

land, west to Quincy and Cedar Key on the seaboard, north on the coastline to Folkston, Georgia, and seaboard as far as Woodbine, Georgia; that this is the same territory that has been covered by his branch house for the past six or seven years with the exception of some territory which the Moultrie branch house worked from June, 1919, November, 1920 and May 1921; that in the territory which they Moultrie Packing Company had been serving, his branch had sold principally cured pork products including dry salt meats and smoked hams.

That at the present time his branch is handling soft and oily pork from Moultrie; that he began handling it in 1917 and has handled it continuously since that time; that they sell it to the trade in Jacksonville wherever they can find a buyer that they are offering it to the trade all the time; that
1249 there is some trade that will not use that pork unless it is sold to them at a very greatly reduced price and there are others that do not want it at all at any price, and there are some others who will take it at some differential from 3 to 5¢ under the price of Western pork product.

That he has kept continually after his salesmen urging them to sell the soft pork; that it is hard to sell; and if he left the salesmen alone and did not keep continually after them they would sell very little of it; that he usually has meetings of these salesmen on Saturday and urges them to sell the Moultrie product; that the District Superintendent often urges them to move the Moultrie product, and the Chicago Office of Swift & Company writes to him about it.

That the usual differential between Western and Southern pork is around 3 to 5¢, depending upon the customer with whom he is dealing.

That he has no figures from which he is able to tell whether or not he makes or looses money on the Moultrie product; that the records are not kept separately; that he figures that Swift & Company lose money on it because in the first place the shrinkage is very heavy, and in the next place they can not find buyers unless they sell it pretty nearly at what it costs; that based upon records which he has in his office of sales and earnings per cwt. per week, the earnings of Swift & Company at its Jacksonville branch house for the week ending June 25, 1921, was $1.25 per cwt.; and that during the same week the cost of business or expenses was $1.32 per cwt., or in
1250 other words, Swift & Company lost 7¢ per cwt. per every cwt. goods sold; (Quote verbatim Testimony Page 2980 to 3013).

1251 H. M. BISER called as witness for the Respondent in rebuttal at Jacksonville, Florida, July 7, 1921, after being duly sworn, testified in substance as follows: (pp. 3014-3033)

That he is steward at Gilreath's restaurant, 223 West Bay Street, and has occupied that position for six years; that the restaurant has a lunch counter and tables; that at the lunch counter are 48 stools and there are from 40 to 60 chairs at the tables; that the very best class of people come to that restaurant; that in buying food he buys the best on the market;

That he has bought pork of the Moultire Packing Company —about 5 years ago; that he stopped buying it because he could not get it from the people he was doing business with.

That he had a conversation with someone who told him that Swift & Company had taken over the Moultrie plant.

That he used to get fresh pork, hams, pork shoulders, and pork butts from the Moultrie Packing Company; and that the pork was entirely satisfactory at the price it was purchased; that if he remembers correctly he was able to get the Moultrie pork at $2.00 less than the Western pork; that if he could buy the same grade of Moultrie pork now at 2¢ less than Western pork, he would purchase it.

1252 That he is now using peanut fed smoked hams in the restaurant and that they are giving satisfaction; that he prints on his bill of fare that it is ham from peanut fed pork.

Cross-Examination.

That he does not remember that Swift & Company salesmen ever offered him peanut fed pork; that he did not know until that day that Swift & Company was handling Moultrie products; that there were certain cuts of pork that he would never use in the summer because there was too much oil in it and would not cook good and it was too hot in summer and people do not eat much pork; that he would buy smoked meats of Southern pork from 2 to 5¢ per pound under the market in season; that he would be glad to talk to Mr. Brice the manager for Swift & Company about it. That he advertises western pork on his bill of fare.

That since the Moultrie Packing Company has been selling meat in the Jacksonville market he has not been able to buy Southern meat when he wanted it because he bought practically all his pork from the Smith Richardson-Conroy and Jef-

fries Market and neither one of them had it; that he did not go to outside dealers to try to get it; that while the Moultrie plant was running, those dealers always seemed to have it; that during 1918, 1919, 1920, he has not been able to get anything but Western meat from the Jeffries Market.

1253 That the razor-back pork he advertised on his bill of fare is purchased from the Jeffries Market but he does not know where they get it but thinks it is a special country cure; that since 1917, he has never tried to buy any of the soft or oily pork except country cured hams that he is using.

When asked the question by the counsel for the respondent: "Is it correct to say that the reason you have not attempted to buy soft and oily pork is because it is not good enough for your trade," witness replied, "No, it was good enough—Well, it would be good enough now; it would be good enough in the winter time"; that not only in the winter time but certain cuts of it he could use in the summer time but not much; that he does not have much trade on any pork at all, but he can cut more out of the Western loin than he can out of the Moultrie or Georgia; that on pork loins he can make more money on Western pork loins than Georgia pork loins at a less price.

Redirect Examination.

That he never made any attempt to get any Moultrie products because he asked someone at Jeffries Market if they had any Moultrie pork and he said no, and then he did not both about it any more; that if Swift & Company had it, he did not know it.

Recross Examination.

That the Jeffries Market does a wholesale business, selling hotels and restaurants and that they cater to that trade.

1254 (Witness excused)

Examiner Sadler: Is that all?

Mr. Taylor: Yes sir.

Examiner Sadler: When shall we adjourn to?

Mr. Horton: Mr. Examiner, I will need a couple of days in Moultrie to get my testimony in shape, so I suggest that we adjourn until Monday.

Examiner Sadler: We will adjourn until 10:00 o'clock Monday.

(Whereupon, at 3:00 o'clock P. M. July 7, 1921, the hearing was adjourned to Moultrie, Georgia, at 10:00 o'clock A. M. July 11, 1921.)

1260 Docket 453.

Moultrie, Georgia, July 11, 1921.

Met pursuant to adjournment from Jacksonville, Florida, 10:00 o'clock, A. M.

Before:

Clarence T. Sadler, examiner.

Appearances:

Mr. A. N. Taylor and Mr. E. F. Haycraft, care of Federal Trade Commission, Washington, D. C., appearing for the Federal Trade Commission.

Mr. Frank L. Horton, care of Swift & Company, Chicago, Illinois, and Messrs. Hill & Gibson, Moultrie, Georgia, appearing for the respondent.

Examiner Sadler: The hearing will come to order.

Mr. Horton: I would like to have another day, Mr. Examiner, to prepare my case here.

Examiner Sadler: Is there any objection?

Mr. Taylor: Well, of course, that is up to Mr. Horton; he is putting in his case.

Examiner Sadler: All right, we will adjourn until tomorrow morning at ten o'clock.

(Whereupon at 10:02 o'clock A. M., July 11, 1921, an adjournment was taken until 10:00 o'clock A. M. of the following day, July 12, 1921)

1261 Docket 453.

Moultrie, Georgia, July 12, 1921.

Met pursuant to adjournment 10:00 o'clock A. M.

Before:

Clarence T. Sadler, examiner.

Present: Parties as before.

Examiner Sadler: The hearing will come to order.

Mr. Hill: Gentlemen, here is a petition filed by the Moultrie Chamber of Commerce here intervening in this matter.

Mr. Taylor: Wait a minute; if Mr. Hill desires to intervene here, he will have to make his application to the Commission for permission from them; we have no authority to allow him to intervene.

Mr. Hill: We have already done that; it has been allowed by the Commission.

Mr. Taylor: Have you a copy of that order? We have no instructions at all.

Mr. Hill: There is a telegram from them which they said would be sufficient to you.

Mr. Taylor: Well, as I read this, it is a denial of your application to intervene, but permission for you to get such evidence for Swift's attorney to present as he may see fit, which does not give you any status in this proceeding, and therefore I should not think we had any right whatever to note your appearance here as a party, or even as representing a party. However, that is a question for the examiner to pass upon.

1262 Examiner Sadler: I think the telegram sets that out.

Mr. Hill: What?

Examiner Sadler: I think the telegram sets out that you cannot be made a separate party.

Mr. Hill: Let's see what it says: "Hill & Gibson, Attorneys, Moultrie, Georgia. Reference Chamber of Commerce request through Congressman Parks for intervention in complaint against Swift and leave to intervene Stop. Cannot grant intervention as separate party, but you can arrange with Swift's attorney to present such evidence as Chamber desires stop. This message shown to our attorney and examiner will be sufficient authority. Nelson B. Gaskill, Acting Chairman." We want to get it in the record; we think we have a right to appear, as far as that goes.

Mr. Taylor: Mr. Hill, as I understand that telegram, if the Chamber of Commerce has any evidence which it wishes to introduce, you can arrange with Mr. Horton, and Mr. Horton will put in such evidence, or such of it as he and the Chamber of Commerce sees fit. That is my understanding of the telegram.

Mr. Hill: The original of that petition of intervention was filed with the Trade Commission yesterday. If there is any doubt about it, I want you to go ahead and hear the evidence on it. I don't know what they mean by that. I took it for granted the petition for intervention would be allowed, as provided by the statute; let the Commission determine later whether they will hear it as a separate issue or hear it in connection with Swift & Company; no difficulty about it one way or the other; if they decide against it, all right. That seems to be a little ambiguous right here.

1263 Examiner Sadler: No, it is right here: "Cannot grant intervention as separate party." I think that will

cover it. If you made application to the Commission for intervention, they might have granted it, but here it says specifically that they did not.

Mr. Hill: Let's see: "Cannot grant intervention as separate party, but you can arrange with Swift's attorney to present such evidence as Chamber desires."

Examiner Sadler: Yes; well, that would be through the attorney for the respondent.

Mr. Taylor: In other words, that is an arrangement for you to make with Mr. Horton, not a matter that is before the examiner or attorneys for the Commission at the present time; of course, I assume that we have the same rights as to making objections as to any evidence that is offered by Mr. Horton, whether it may be evidence that he is offering at the request of the Chamber of Commerce or the respondent.

Mr. Hill: Well, we desire to introduce this evidence for the Chamber of Commerce. I presume, Mr. Horton, we can arrange with you to introduce any evidence that is material in supporting the allegations of this petition?

Mr. Horton: We have no objection, Judge Hill, to introducing such evidence as you desire.

Mr. Hill: All right. We shall so far as it is in our power reserve the right before the Trade Commission, that we have a right to intervene in this as a separate party.

1264 Mr. Taylor: That telegram would indicate that they have passed upon it.

Mr. Hill: I doubt if they have heard it sufficiently to pass upon it; it got there at night, I think. They can deny it, I understand, if they want to. If they have considered the matter and have denied it, then it is all right, but I don't feel like they have given it due consideration.

Examiner Sadler: Well, all we can go by is the telegram.

Mr. Hill: We will introduce it under arrangement with the attorneys representing Swift. We will present Mr. Caldwell as the witness, Mr. Examiner.

Examiner Sadler: Stand and be sworn.

Mr. Taylor: I would like to know what the record shows about Mr. Hill's appearance here; is he noted as the attorney for any one?

Mr. Hill: You may note me as the attorney for Swift & Company or the Chamber of Commerce either.

Mr. Taylor: I don't understand that we have the right to let you appear here for anybody; as I understand this telegram, if there is any evidence which you wish to introduce, you arrange with the attorney for the respondent, and the

attorney for the respondent will examine your witnesses and will continue the proceeding the same as he has heretofore.

Mr. Hill: Well, that is notice to Hill & Gibson—that is my law firm here—saying that I may make that arrangement.

1265 Mr. Taylor: That is, if Mr. Horton wishes to introduce any evidence that the Chamber desires, then you arrange with Mr. Horton to put that in the same as he would otherwise put in the evidence for the respondent.

Mr. Hill: I think that gives me authority to introduce the evidence myself; I insist upon the right to examine these witnesses for the Chamber of Commerce.

Mr. Taylor: I shall object to it on the ground that you are not a party to this proceeding, that no order has been entered allowing you to intervene, and that it is apparent to me from the telegram submitted that your rights are only to arrange with Mr. Horton or the attorney of record for Swift & Company to introduce such evidence for you as you and he may agree upon.

Mr. Hill: All right—

Mr. Taylor: Therefore, Mr. Examiner, I object to Mr. Hill being noted here as the attorney for anybody, and I object to his proceeding to examine any witnesses.

Mr. Hill: Do I have your permission to examine these witnesses for you, Mr. Horton?

Mr. Horton: You have, Mr. Hill.

Mr. Taylor: I suggest, Mr. Hill, that you file a copy of your telegram for the record.

Mr. Hill: All right, that is what I intended to do.

Examiner Sadler: I think the best way to clear this up would be to take it up direct with Washington and get

1266 definite instructions on this.

Mr. Hill: Well, I have arranged with the attorney representing Swift to examine these witnesses for him.

Examiner Sadler: I know, but you are not a party to the record so far.

Mr. Hill: Mr. Horton requests me to examine his witnesses; these are his witnesses now, the Chamber of Commerce has abandoned them.

Examiner Sadler: Well, he would be entitled to examine the witnesses under the telegram.

Mr. Hill: I understand, but if the attorney for Swift permits me to do so, who can object under the law? Is there any law to prevent me from examining the witnesses instead of him, if he substitutes me for himself in this examination?

What difference should it make to the Government whether I examine the witnesses or Mr. Horton? It is merely a means of ascertaining the truth, either through him or myself; what valid objection could there be to any attorney examining the witnesses, if he asks me to do so in his stead?

Mr. Taylor: I would suggest, Mr. Examiner, in view of the wording of this telegram, that Mr. Hill's request to conduct this examination himself be referred to Washington; you will have a reply by tomorrow, and that—if it is the understanding and desire of the Commission that Mr. Hill should proceed, then he can proceed as he now requests.

1267 Examiner Sadler: That is what I had in mind.

Mr. Hill: Mr. Examiner, can there be any doubt in your mind as to whether or not the Commission cares whether I examine the witness or Mr. Horton? Or Mr. Gibson, or any other attorney; the purpose of this examination is to ascertain the facts with reference to the charge against Swift, to discover the truth, and if the truth can be elicited from the witnesses by myself as well as by Mr. Horton, what objection could the Commission have to that?

Examiner Sadler: I understand, but I just want to refer the matter to the Commission and let them pass on it.

Mr. Hill: Do you need any authority to permit me to ask the witness questions?

Examiner Sadler: If you want to intervene.

Mr. Hill: I am not intervening now, I am doing this at the request of Mr. Horton, examining his witnesses for him, that is all.

Examiner Sadler: I would rather take up the matter with Washington and have a definite understanding as to that.

Mr. Taylor: I think, Mr. Hill, you are not examining Mr. Horton's witnesses for Mr. Horton; you are examining the Chamber of Commerce's witnesses, your own client, for yourself, as attorney for the Chamber of Commerce, when this telegram before you shows that your application for intervention is not allowed.

Mr. Hill: I will answer that. He had adopted my

1268 witnesses as his witnesses, and permitted me to examine his witnesses for him, that is all; he has adopted the witnesses brought here to sustain our contention as his witnesses; he adopts them as his own and permits me to examine them in his stead. There can be no reason in law or justice why that should not be done.

Mr. Taylor: If Mr. Horton desires to make your witnesses his witnesses and examine them as his witnesses, I should

consider that within the meaning of that telegram, but for you to take the witnesses and examine them, I consider that contrary to the understanding of the telegram.

Mr. Hill: Now, let's see if it is contrary to the telegram; they would not—the Trade Commission would not go into such minute detail as that any way; it is immaterial to them who examines the witnesses. It says that you can arrange with Swift & Company to present such evidence as the Chamber desires.

Mr. Taylor: And that Swift & Company shall present such evidence as the Chamber desires to have presented.

Mr. Hill: It does not say that; it says I can make arrangements—

Mr. Taylor: To present such evidence—that is, Swift & Company, to present such evidence as the Chamber desires, that is exactly what I said, is my understanding of the telegram; if you desire to proceed in that way, I shall consider such procedure within the authority of the telegram.

Mr. Hill: Mr. Examiner, we ought to put this up to you and let you decide; if that is not unambiguous language I cannot conceive of anything that would be. This telegram
1269 is addressed to the Trade Commission at Washington, D. C. by Hill & Gibson, attorneys, Moultrie, Georgia; here is the telegram in reply, to Hill & Gibson, Attorneys, Moultrie, Georgia, in which they deny intervention, but say you—that is the attorneys—can arrange with Swift's attorneys to present such evidence as the Chamber desires. Now, the method of procedure, who is to examine the witnesses, is such a minute and such an insignificant matter, it is necessarily to be inferred that the Commission would not think about a thing of that sort, because it does not make any difference to them who examines the witnesses.

Examiner Sadler: Well, in that light, I will take it up with the Commission and I will reserve my ruling until later on, when I hear from the Commission, then I will give a decision.

Mr. Hill: Well, if you get authority from Washington to decide that question, of course you will have to follow that.

Examiner Sadler: In view of the telegram I would like to take it up with Washington.

1270 T. A. SMITH was called as a witness on behalf of respondent, and after being first duly sworn, testified in substance as follows:

(Pages 3044-3049, 3383-3398, 3437-3460, 3544-3548)
(" 3495-3499, 3506-3529, 3567-3572)

Direct Examination.

That he is employed by Swift & Company, Moultrie, Ga. as head bookkeeper at the Moultrie plant; that he has occupied that position since December 1917. Having produced his records, witness stated that he was able to tell whether or not the Moultrie plant operated by Swift & Company made or lost money during the year 1921, through June, and the years 1920, 1919 and 1918, and for 1917 through July to December 31st; that he has prepared an exhibit showing the said results, which exhibit is marked "Respondents Exhibit B-3" for identification; that Exhibit B-3 for identification is a true and correct copy of results shown on said books.

That since November 3, 1917, the Moultrie plant has been operated not as the Moultrie Packing Company but as Swift & Company; that Swift & Company has its own signs on the plant, its own letterheads, its own billheads and other signs which indicated that it was doing business as Swift & Company.

Witness produced, identified and authenticated the books and records showing the number of head of cattle and hogs slaughtered at the Moultrie Plant the last half of the
1271 year 1917 and for the years 1918, 1920 and the year 1921, January through to June. The books were offered and received in evidence, and leave was granted to withdraw the books and substitute an exhibit showing the number of cattle and hogs slaughtered by the Moultrie plant from July 1917 through and including June, 1921. The exhibit was marked "Respondent's Exhibit No. 3."

That he has records which will show the sales by or shipments made to E. N. Wood of Birmingham, Alabama, who represented the Moultrie Packing Company there as a broker.

Witness identified certain commission slips showing commissions paid Mr. Wood at Birmingham which were offered and received in evidence marked "Respondent's Exhibit 4" and consists of eleven different statements.

Witness identified certain commission slips showing com-

mission paid to Mr. Stanaland. These slips were offered and received in evidence marked "Respondent's Exhibit 5," consisting of twenty-one separate sheets.

Witness also identified certain commission statements showing commission paid Sam Smith at Jacksonville, Florida, for the period from October, 1915 to June, 1917, which were offered and received in evidence marked "Respondent's Exhibit No. 6."

Witness further testified that with the exception of half of the month of August for Mr. Wood of Birmingham, these commission slips represented all the commissions paid to the respective gentlemen for the periods covered. Witness
1272 further testified that the rate of commission paid was two and one half per cent on cured products such as dry salt and smoked meats, pickled pork and lard, one cent per pound on sausage and one and one half cent per pound on fresh meat; that in addition to commissions, the Moultried Packing Company paid certain storage and delivery charges.

Witness produced a statement showing number of cars shipped from Moultrie plant to Swift & Co. branch house during years 1918, 1919 and 1920 which was received in evidence and marked "Respondent's Exhibit No. 7."

Witness produced and identified records which showed the sales or shipments made by the Moultrie plant to Swift & Company's Jacksonville, Florida, house for the period of 1917—last six months—and the years of 1918, 1919 and 1920, in weight and in dollars, and the same figures for the same period for product shipped to Swift & Company's Atlanta, Georgia house. (For a portion of year 1917 the weight was omitted—the reason was that no record was available). These statements were offered and received in evidence and marked "Respondent's Exhibit No. 8." Witness further testified that these exhibits representing packing house products shipped from the Moultrie plant, and consisted of principally pork and beef—much more pork than beef; Referring to the amount of $31820.52 representing shipments made in 1917 from the Moultrie plant to Jacksonville, Fla. The first shipment was made in the month of August and continued right through to the end of December. The same
1273 is true of the Atlanta shipments. The first shipment to Atlanta was on September 27th.

Witness produced books and records which showed the amount of money invested in buildings and machinery on

October 30, 1920 at the close of the last fiscal year, excluding all money invested in automobiles, trucks, office furniture and fixtures and land. These books were offered and received in evidence and marked as "Respondent's Exhibit No. 13."

Witness produced, identified and authenticated three books marked "Respondent's Exhibits B7, B8 and B9" for identification, and stated those books were true and correct and made in the usual and ordinary course of business covering the period from July 1, 1917 to and including July 2, 1921, by fiscal years and showed the profit and loss on any given commodity such as beef, pork, lard, etc. Books were offered and received in evidence for the purpose of showing profit and loss of the Moultrie plant for the period mentioned. Permission was given to withdraw the books and substitute an exhibit on which the figures are shown, which said exhibit was received in evidence and marked "Respondent's Exhibit No. 18."

Witness produced, identified and authenticated books and records which showed the volume of meats and packing house products which have been brought in to Moultrie plant from the North and Northwest in the years 1918, 1919 and 1920.

Books and records were offered and received in evidence and permission was given to substitute an exhibit which was marked "Respondent's Exhibit No. 20."

1274 Mr. H. McDOWELL was called as witness on behalf of respondent, and after being first duly sworn, testified in substance as follows (Pages 3050-3062, 3153-3162, 3170-3175, 3530-3544):

That he lives in Moultrie, Georgia, and is manager of the Moultrie plant of Swift & Company; that he has held that position for two and a half years; that he has entire charge of the plant and is familiar with the operation of the business; that he is familiar with the prices paid for live stock and other raw material which is used in the plant; that he heard the testimony of Witness Smith, and that the results by years at the Moultrie plant are arrived at by taking into consideration actual purchase price of live stock or other raw material, and the figures represent the difference, profit or loss, between the price paid for our material and the price for which the plant sells the finished product.

That he is now manager of the Moultrie plant of Swift & Company; that he has been in the packing business for twenty-five years; that he has been manager of the Moultrie plant since February, 1919; that prior to February 1919, he worked for Swift & Company at Chicago, Illinois, in a department which had charge of the Moultrie and Andalusia plants; that his particular duties there were to look after the Moultrie plant; that he is familiar with the various phases of its operation prior to February, 1919, and visited Moultrie from time to time; that when he was made manager
1275 of the Moultrie plant, he received his instructions from G. F. Swift, Jr., an officer of Swift & Company and one of the vice-presidents of the company and in charge of the pork end of the business. That Mr. Swift stated the plant had not made money but not to be discouraged because of that fact; that Swift & Company had acquired this plant figuring that this territory would be a good live stock producing section and that perhaps the plant would not make money until the surrounding country produced enough live stock to give the packing plant an adequate, well-balanced supply of raw material; that he further instructed the witness to make the principal part of his work the aiding of the farmer in getting into the live stock business, assisting him directly and through any agencies who worked with the farmers to learn the business of live stock raising; to endeavor to have the plant turn out products in the most merchantable manner, to improve them if possible and to develop new ways of selling the product so it would bring the highest price possible, to pay for the live stock all that the Company could afford to pay without incurring an actual loss; that the hogs slaughtered at the Moultrie plant are known commercially as soft-meated hogs; that since Swift & Company acquired the plant ninety per cent of the hogs have been soft and oily; that the product from the soft and oily hogs is radically different from the usual pork products; that because of its appearance it is considered undesirable by the dealer and consumer; that Swift & Company sought to improve its appearance so that it would bring as nearly as pos-
1276 sible the general market price in the south for Western meats. That in line with the general policy to develop the live stock industry in the South, Swift & Company contributes $2500 a year to the Georgia State College of Agriculture, to assist the college in developing the teaching of farmers to develop adequate pastures for live stock; that

adequate pastures did not theretofore exist; also a donation of $250 per year to the Georgia Boys Pig Club, to be used for prizes.

That the policy of Swift & Company has been to buy all the live stock it could secure at a price that would not show an actual loss, up to the point of the maximum capacity of the plant; that in order to secure this live stock the company maintained a force of buyers of from two to five, covering all of south Georgia as far north as Atlanta, both the Carolinas, the state of Florida, southern Alabama, and has sent buyers to live stock markets such as Jacksonville, Montgomery, Nashville, and it has actually purchased live stock on those markets.

That the witness heard Mr. Brooks testify yesterday in regard to the radius in which the old Moultrie plant purchased live stock; that Swift & Company still buys in that territory and also has materially enlarged the territory over which it buys because of the constantly decreasing supply of live stock; that the live stock produced in this section has decreased since the year 1919.

1277 Q. Is it essential to the handling of live stock profitably by the producer that he have a nearby market for his stock?

(Copy testimony verbatim beginning with "A. It is essential to the handling of live stock profitably by the producer that he have a nearby market for his live stock." on page 3163 through to the end of the first paragraph on page 3170 which ends with the words "but we hope to produce it before this hearing closes."

That the witness' efforts had been directed towards popularizing products produced at the Moultrie plant, and because of their inferior quality, had to work constantly to educate the salesmen and branch house managers to sell the product—particularly to overcome the objections of said representatives to the product, they claiming that the trade preferred the Western hard meat; that he has tried to market the product in the North, East and West in such cities as St. Louis, Chicago, Pittsburgh, Harrisburg, Philadelphia, New York, Baltimore, Richmond, and Norfolk; that the results on all these shipments were lower than the same product would bring in the South because of the fact that the Southern meats have not been handled in the North and West and both dealers and consumers were not familiar with them which enforced a heavier discount. That the best marketing

territory for such meats is what is ordinarily called the peanut belt of the Southeast, where the hogs are raised.

That Mr. H. L. Hovey, Jr., was in charge of the Sales Department of the Moultrie plant and has devoted his energies in building up of selling outlets and assisting the wit-
1278 ness in keeping in touch with these agencies; he also covers various territories periodically.

That the witness has been over the territories with the managers and salesmen for the respective branch houses of Swift & Company and that from his experience while traveling around with these men he would say that they were trying to sell the Moultrie product—were constantly making every effort to find a market for those products, but are up against disinclination of the trade—dealers—to handle this product except at a heavy discount under Western meats, and that many of the dealers refused absolutely to handle Southern meats at any price. That soft and oily hogs were purchased on the market at from one to two cents per pound under the price on the Western market of hogs of the same weight, and that a premium of one cent per pound was paid to producers of hard hogs in this section.

That the witness had worked with the farmers of this State in conjunction with representatives of the Georgia State College of Agriculture, representatives of the State Department of Agriculture, representatives of the Farm Bureau, county agents in the various counties in which hogs were purchased, and the respective Chambers of Commerce of the several counties.

Identified pamphlet entitled "Grow Hogs in the South" and stated that it was one of the pamphlets which had been put out by Swift & Company to encourage the production of live stock and particularly a better class of hogs; also stated the pamphlet was first issued in 1920. The pamphlet
1279 was offered and received in evidence and marked "Respondent's Exhibit No. 14."

Identified another pamphlet entitled "Grow Hogs in the South" which indicated it was issued in 1919. This pamphlet was offered and received in evidence marked "Respondent's Exhibit No. 15."

Identified another pamphlet entitled "The Two Crop Hog Plan for Southwest Georgia, by S. C. Hood," which indicated it was issued in the year 1919. This pamphlet was offered and received in evidence and marked "Respondent's Exhibit No. 16."

Identified a document entitled "1920 Hog Feeding Experiments, conducted by Georgia State College of Agriculture, Division of Animal Husbandry, Athens, Georgia, Swift & Company, Moultrie, Georgia, Cooperating." This document was offered and received in evidence and marked "Respondent's Exhibit No. 17."

Witness stated that the four pamphlets referred to were distributed by Swift & Company direct to the live stock raisers of the southeast in their buying territory, also through the county agents in all the counties in the same territory, through the respective Chambers of Commerce in the same counties, and through the Georgia State College of Agriculture, and through the leading bankers of each of the different counties.

That it was the policy of Swift & Company, followed constantly, to operate this plant up to its total capacity; that in endeavoring to do so they try to buy sufficient live stock to accomplish that purpose; that they having a buying department in which they employ all the way from two to five
1280 buyers, the number of buyers fluctuating with the seasons and the available supply of live stock; that eighty-five per cent of the live stock is received through so-called live stock shippers, meaning by that carload shippers in the plant's buying territory; that there were about seventy of these shippers; that they tried to keep in constant touch with live stock shippers through letters or by 'phone; that when a sufficient supply of live stock from these shippers is not received the plant sends its buyers out into the buying territory. That in addition, the plant receives shipments of live stock from points within a radius of twenty-five miles from what has been designated as "hog rustlers," men who gather up smaller quantities of hogs and haul them to the plant by truck. That practically all the live stock from Colquitt County that is marketed by Moultrie is driven in by truck and does not come in in carload lots; that in addition to the foregoing, they keep in touch with the live stock markets in Jacksonville, Nashville, Montgomery and Alabama, and whenever the opportunity offers they buy live stock on those markets and have it shipped to Moultrie.

That when the witness first came to Moultrie the buyers operated within a radius of one hundred miles; that since that time and particularly during the year 1920 and so far in the year 1921, the buyers covered a much wider territory —much larger territory, because of the scarcity of live stock.

That the plant sought to increase its killing by covering more territory; that outside of purchases on the recognized
1281 live stock markets, the buyers covering the following territory: Macon on the North, Savannah on the East, Jacksonville on the Southeast, Tampa on the South, Applilachicola on the Southwest and the Alabama line on the West; that a line running East and West through Macon would be the Northern boundry.

That with reference to the Montgomery buyer, they had received a wire from him every day for the past sixty days stating that no hogs were there; that previous to that time they purchased a great many hogs in the Montgomery market; that they frequently buy hogs and cattle on the Jacksonville market.

That the Atlanta market furnished the plant practically no hogs but they did buy an occasional car of cattle on that market.

That with regard to the Nashville market—they bought on that market whenever the price was such that they could afford to buy, but during the past sixty days they have continuously endeavored to purchase carload lots of hogs on the Nashville market and have been unable to secure any as the commission men said they did not have hogs to spare after filling their own orders.

That it was the general opinion of those experienced in the packing house and live stock businesses that it is unprofitable both to the shipper and the packing plant to transport hogs a longer distance than they would be transported within a period of thirty-six hours; that in the South where they had slow train service it was considered unprofitable to try to ship hogs more than 250 miles; that cattle can
1282 be shipped longer distances than that without much chance of heavy mortality in transportation, but the shrinkage is so great that it is unprofitable to ship them from a distance more than 250 miles.

That while the witness says the foregoing is the opinion of others, it is his opinion also.

That by the term "pig" it is usually meant a young hog or lean hog—weighing anything less than packer weights of hogs; that as a general thing, packers do not cut up any hogs into cuts which weigh less than one hundred fifty pounds live weight, so that anything under that weight would be designated as a "pig." That in other words a "pig" was a young hog which had not yet reached maturity.

That the policy of the Company was to discourage in every way possible the sale of pigs by the farmer because they believed that the farmer was losing a part of his potential profit by marketing his hogs before they reached the packer weights and also through their desire to have him make as much profit as possible in the raising of hogs. That the Moultrie plant was constantly forced to buy pigs as they were mixed in with the hogs received in carload lots; that those pigs were graded and thrifty ones picked out—the ones that would make good feeders and would show quick gain if fed, and endeavored to sell those pigs back to the farmer; that that was the constant policy—to sell back all thrifty pigs to the farmers; that they were sold back to the farmers at cost, or even less if they were unable to get cost. That the
1283 same policy with reference to putting pigs back on the farms to be finished also extends to any good calves or cattle, both heifers and bulls which are thought to be good enough for breeding stock; that frequently the plant has held cattle in its yards for as long as thirty or sixty days while an effort was made to find purchasers for them; that ever since the witness had been at Moultrie, he noted a decrease in the available live stock in the buying territory; that he first noted it late in 1919 or early in 1920.

That he thought it would materially increase the Company's chance of buying more live stock to have a public competitive live stock yards located at Moultrie; that he consulted with the officials of his company and secured their approval; that he then approached the local people and told them that Swift & Company would like to see a competitive public stock yards established at Moultrie because they believed it would center in the Moultrie yards live stock from a greater radius than they could afford to cover in their buying operations; that if the undertaking was successful and a competitive market developed at Moultrie, it would act as a stimulus to production by giving the producers more than one bid; that at various meetings with individuals and groups of individuals he convinced them that it would be a good move for Moultrie to make, and when they agreed to take it up he dropped out of it because his company could not own any stock in the Stock yards company; that Swift & Company do not own any part of the stock yards company.

1284 That the killing capacity of the Moultrie plant was nine thousand hogs per week, taking into consideration

operation for six days per week and ten hours per day; that the killing capacity of a plant must be backed up with cooling capacity to take care of the live stock slaughtered; that if a plant could slaughter nine thousand hogs per week, that means it must have a cooler for chilling eighteen thousand hogs because the hogs will not cut until they have been chilled for forty-eight hours; that it is considered unsafe to do so. Also that the chilling capacity must be backed up by freezer capacity or by curing capacity because as soon as the hogs are cut up into the various products the products must be put in cure immediately or be frozen. That when the witness said the killing capacity of the plant was nine thousand hogs per week, he meant that the plant could slaughter that many hogs in a week and take care of the products in the regular course of handling through the various parts of the plant and provided also that it was killing hogs only. That if cattle, sheep or calves were killed along with the hogs in any quantity, that would reduce the capacity for hog killing or rather hog chilling; that the reduction would be in proportion to the number of cattle slaughtered. That the killing capacity of the Moultrie plant is now rated as follows:

950 hogs and 250 cattle each day
Cellar and curing capacity—5,000,000 lbs.
Freezer holding capacity—1,700,000 lbs.
Smoked meat department—100,000 lbs. per week.
Power house—350 horsepower.

1285 Welfare building, meaning the building containing the lockers, shower baths for employees, capacity, 450 people.

1286 put in evidence, such document will not be filed, but a copy only of such material and relevant matter shall be filed?"

Examiner Sadler: Recess until two o'clock.

(Whereupon at 1:00 o'clock P. M., July 12, 1921, a recess was taken until 2:00 o'clock P. M. of the same day.)

After Recess.

2:00 o'clock P. M., July 12, 1921.

Examiner Sadler: The hearing will come to order. As to the admissibility of Respondent's Exhibit B-3 for identifica-

tion, I will rule that Mr. Taylor's objections will be sustained, and I suggest to Mr. Horton that if he considers this ruling unfair to his interests, that he make application to the Commission. In my mind this exhibit is irrelevant and incompetent to the issues in this case.

Mr. Horton: Now, Mr. Examiner, let me get this clear. Are you objecting to the exhibit because it is an exhibit? Do you wish the records themselves introduced in evidence? If so, I will offer them.

Mr. Taylor: Mr. Examiner, it does not seem to me that it is quite fair to call upon the Examiner to specify the character of proof that either party shall offer. The Examiner rules upon evidence when it is offered; it seems to me that he is doing all that can fairly be expected of him.

Mr. Horton: Mr. Examiner, I offer in evidence the two large books which the witness Smith has before him,
1287 which are the periodical statements of the operation of the Moultrie plant, from July 1st, 1917, through and including June 1st, 1921.

Mr. Taylor: Is it understood that the exhibits which are now offered are the same books, the departmental statements, regarding which I questioned Mr. McDowell this morning?

Mr. Horton: Yes sir, identically.

Mr. Taylor: I make the same objections to these that I did to the statement which was offered.

Examiner Sadler: The objections will be sustained.

Mr. Horton: What is the ground of your objection specifically, Mr. Taylor?

Mr. Taylor: I make the same objection I made to the statement, it is incompetent and it is irrelevant; the books are not books of original entry; they are mere compilations and summaries of material gathered from other sources not disclosed; they are wholly irrelevant to the issues in this case, for the reasons which I specified with regard to the other exhibit, B-3 for identification, which was offered this morning.

Mr. Horton: To meet your objection that these are records compiled from sources which are not disclosed, I will say to you that we offered to produce here records which will follow out each transaction in the minutest detail, and will take you clear back to the sources of the entries. You understand that these records are very voluminous and would re-

quire perhaps a truck to transport them here, but never-
1288 theless they shall be here if you request it, if you evince the slightest inclination to see them.

Mr. Taylor: How long a time would it take to examine this truck load of books, Mr. Horton?

Mr. Horton: I do not know.

Mr. Taylor: How long would it take an expert accountant to go through this truck load of books?

Mr. Horton: I do not know.

Mr. Taylor: I have only formulated my objections as to the exhibits which are offered.

Mr. Horton: As far as your objection is concerned with regard to the books not being books of original entry, the witness Smith has testified in substance that they are books of original entry, that they are made in the usual and ordinary course of business; they are part of the permanent records, that the entries made therein were made at or about the time which they purport to show on their face. I know of no other way by which records can be identified more accurately.

Mr. Taylor: You must also take into consideration the facts brought out on cross-examination in regard to the description of the books.

Mr. Horton: I don't see that any fact was brought out on cross-examination that shows that these books were not true and correct regards of the several transactions that took place in.

1289 MR. C. L. BROOKS was called as a witness on behalf of respondent, and after being first duly sworn, testified in substance as follows (pp. 3066-3152):

Direct Examination.

That he lived in Moultrie, Georgia; that his business was that of a designer and operator of packing plants; that he designed the plant of the Moultrie Packing Company, built it, superintended the construction, and was manager of the plant; that in 1913 he was living in Minnesota and was requested by a committee of citizens to come to Moultrie and tell them about a packing house, what a packing house would do and what benefit the country would receive from it; that

when he first came to Moultrie, Mr. J. W. Grier, secretary of the Chamber of Commerce, took him around and introduced him to part of the members of the Chamber of Commerce; that they had a meeting in July 1913 and he then told the Chamber of Commerce what a packing house would do and what it would cost to build one. That the purpose of having a packing house down here, the object they were trying to accomplish was that they were trying to promote a live stock market, or a market for anything else but cotton, to keep the country from going bankrupt. That the country was going bankrupt on account of the boll weevil which was working its way into this section, which had ruined their cotton, and they had to get into something besides cotton.

That the people of Moultrie and the Committee signed
1290 up for about $75,000; that the witness suggested that they do not go any further until they sent a committee of three or five business men out west to see what a packing house meant, what it took to run it, and a committee went to Minnesota about September, 1913. That the witness took them through the plant at Albert Lee, Minnesota, then through the plant at Austin, Minnesota; that on the way back they stopped at two or three places in Chicago; that they then went back to Moultrie, organized a company; that they wired the witness to come down to Moultrie; that he arrived about January 1, 1914; that they had their company organized, with Mr. W. C. Vereen, president; Mr. Barber, vice-President; Mr. Grier, Secretary; Mr. R. Morrison, treasurer; and a full board of directors. That the witness designed the building, let the contract, and also superintended the construction; that witness was a stockholder and attended stockholders' meetings; that at the first meeting witness told them they need not expect this plant to pay any dividend from three to five years; if then, that they would get their dividend indirectly, through the development of the country; that this plant was liable to run at a loss the first two or three years, but would make money for the people indirectly, by encouraging the live stock and promoting a live stock industry in the south and developing the land. That the witness was familiar with the plant from start to finish and was connected with the plant all the time it was operated as the

Moultrie Packing Company; that in his opinion at that
1291 time it would be almost impossible to get any outside packer to come in a town this size, a town not any better advertised or known than Moultrie was at that time.

That witness had been in the packing business since 1882 and through all phases and all departments—from office boy to the top; that it was impossible to get a packer from the West to come in here because if a packer were looking for a location in the South, they would never pick a town the size of Moultrie, they would come into a town like Birmingham, Atlanta, Macon, Jacksonville, Savannah, some town where they knew they had an outlet for a certain percent of their fresh product in the local market.

That the packer gets his raw material wherever the hogs are raised; that the situation with reference to hogs and cattle being raised in the section around Moultrie at that time was that they got into the hog business quicker than any other part of the state; that this section was adapted for live stock; that before the packing house was built there were quite a few hogs in here; that Brooks county was noted all over the country for raising live stock.

That there was not enough hogs in this community at that time to attract a large packer here; that the basis of development of the packing business is to get the live stock first; and it would be impossible to get the live stock if you didn't have a plant here.

Q. What was the basis of development before it would attract a large packer?

1292 A. Is to get the live stock first. It would be impossible to get the live stock if you didn't have a plant here; so the local people built it on that account.

Q. And, as I understand it, the object first was to build the plant and then build up the live stock production to give the plant something to run on?

A. Something to run on.

Q. Now, do you know whether the people that built this place, this plant, intended to remain in the business permanently?

A. Mr. Taylor: I object to that, Mr. Examiner, irrelevant.

Examiner Sadler: The objection will be noted.

A. At the time they were organizing this company, when I was down here first, it looked like some of them were a little bit scared; I told them if they built the plant and done the business, raised the live stock, and could show the packers in the west or the east that they could raise live stock down here, that there would be no question but what some of

the other packers would buy this plant before it was in operation three years.

Q. Was that the basis upon which they went into this enterprise?

A. I think some of them.

Mr. Taylor: That is objected to, Mr. Examiner, as calling for hearsay evidence, speculative guesses, furthermore it is irrelevant to the issues of the case.

Examiner Sadler: The objection will be noted.

Mr. Taylor: No foundation laid for any such answer
1293 as the question calls for.

Examiner Sadler: The objection will be noted.

Q. Mr. Brooks, tell us more fully, if you can, the basis upon which the people of this community went into the enterprise?

Mr. Taylor: I object to that as immaterial.

Examiner Sadler: The objection will be noted.

A. Why, the most of the stockholders that went into this plant went into it with the intention of promoting the live stock industry in this section, create a market for live stock, which would give them a market for their feed stuff at the same time; that was the biggest intention.

Q. Now, was that ideal realized, was it accomplished?

A. Yes.

That when the plant started they killed something like 18,000 hogs the first six or seven months, that is, from December 14th up until August or September; that the next year the plant had more hogs than it could take care of; that it was swamped during the months of November, December, January and February; that they had to send quite a few hogs back which the plant could not handle; that the plant was also choked the first year Swift & Company had it; that they could not take care of the hogs offered to them and that would be in the months of November and December, 1917 and January, 1918. That at the same time the other plants in the country were blocked. That Swift & Company enlarged the plant to take care of the increase in hogs for the next

year; that they built on several coolers, a lot of freez-
1294 ers, new tank house, new engine room and boiler room, and in fact increased the whole plant in proportion to practically triple the capacity over what it was when the Moultrie Company owned it. That he knew the Moultrie Packing Company never paid a dividend; that he thought the capital invested in the Moultrie plant by the Moultrie

Packing Company was $153,000; that the Moultrie Packing Company had borrowed considerable sums to operate on; that they borrowed as high as $450,000 at one time during the Winter season; that that was not borrowed on the sole security of the stock of the Moultrie Packing Company, it was borrowed on the endorsement of the directors of the company. That he was manager of the plant from the time it started to operate until November, 1917; that he ceased active connection with the plant November 8, 1917; that he was active between the time Swift & Company bought the stock, June 1917, and the 8th of November, 1917; that he was at the plant every day and took an active part in running the business; that he was at the time of the testifying manager of the stock yards and also connected with the Moultrie Creamery Company, and with his own business, the Brooks Engineering Company and the Moultrie Construction Company. That the stock yards were organized at Moultrie the last year (1920) in September and opened upon the 6th of November; that the function of the stock yards was for the purpose of creating another market here, to give the shippers and the farmers and stock raisers a competitive market. That Swift &
Company does not own any of the stock, nor has it any
1295 interest in the stock yards company; that it does own
the land upon which the stock yards is built and has given the stock yards company a lease of said land and the privilege of buying it inside of three years at a price set the day the contract was signed; that that land was the best location the stock yards company could get. That Swift & Company have tried to give the stock yards company all the business they possibly could; that they have never thrown any obstacles in the way of the stock yards company and have supported it as much as they could. That Mr. McDowell, manager of the Moultrie plant of Swift & Company was the first man it was taken up with before anything was done; that he was very much enthused over it and thought it would be a good thing for everybody in this section of the country; that he thought the farmers wuld be better satisfied—better than having one market. That he was familiar in a general way with the market prices at the Moultrie yards and the market prices that are being paid in Chicago and other live stock centers; that he was also familiar with prices paid for live stock at the time he was manager of the Moultrie plant, and at that same time was familiar with market prices paid in Chicago and other places. That with regard to the time

the live stock comes to market here—it starts in October, heaviest runs are in November, December, January and February, and eases off for March, April and May; June it gets down to practically nothing, and in July it is pretty nearly dead; August a few come in again; September picks
1296 up a little and October generally gets a full run. That seventy-five or eighty per cent of the live stock comes to market between October and March; it was that way in 1915, 1916, 1917 and up to the present time. That the hogs on the Moultrie market sold for lower prices than the hogs of the same weight on the Chicago market; that in the language of the market, this difference is called the "spread"; that the witness is familiar with prices paid in the local market and the Chicago market since the stock yards started up, since November 6, last; that since the stock yards started up the price paid on the local market has been half a cent to two cents under the Chicago market; that in the days when the Moultrie Packing Company were operating the plant, prices paid were from one and one-half cents to three cents under the Chicago market; that in giving this testimony he was not referring to the top hogs of Chicago market, but to the "bulk of the sales", which is the market; that at Chicago there would be special lots of hogs which somebody would want and pay a premium to get; that there were sometimes hogs on the Moultrie market for which there was special demand; for instance, light pigs for feeding purposes which are put out on the farms for feeders. That was true when the old Moultrie Packing Company ran the plant, and also when Swift ran it; that both Swift & Company and the stock yards company have bought feeder hogs and put them out on the farms; that they were put out to educate the boys, and a certain grade was picked which would grow fast; that several carloads were purchased and a premium was
1297 paid for those feeders; that the premium was two cents above the Chicago market. That the object of starting the pig clubs was to keep the light hogs in this section of the country—to get more hogs here and get the hogs started back in this country again. That on account of the price of cotton going up to forty cents, farmers were getting out of the hog industry. No charge was made for the worked involved, the veterinarians inoculated the hogs free of charge, and the stock yards handled them without charge for yardage or feed. That the old Moultrie plant in the months of June, July and August, when they were not getting many hogs,

paid practically the same price locally as was paid by the Chicago market.

That when Swift & Company bought the plant, Mr. Swift was here; that he said he wanted the plant run along the same lines that it had run until he got ready to make any changes that he wanted to make; that he wanted witness to stay here until the organization was all here and able to take hold of the house; that he ran the plant along the lines previously adopted by him; that he never received any dictation from Chicago as to what prices to make on the products or prices to be paid for live stock; that they had to send a telegram every night to tell the number of hogs and cattle purchased and the average price for the day; that he did not know Swift & Company ever tried to restrain or suppress competition in any way, during the time he was there, and if it had been done, he thought he would have known about it.

1298 That he knew Sam Smith of Jacksonville, Florida; that Sam Smith came to Moultrie in July, 1917, and asked if the plant had been sold to Swift & Company; that when Smith was informed that the plant had been sold to Swift & Company Smith said that he would not work for Swift. That he was familiar with the business that Sam Smith did while Smith was acting as a broker for the Moultrie Packing Company at Jacksonville; that at times Smith was good and that at other times he would drop the price of the products too low and witness would have to call him on the 'phone or wire him to get his prices up; that that would happen probably three or four times a month. That the witness was familiar with marketing product through a branch house and also through a broker; that he prefers to sell through a branch house.

That with regard to Mr. Stanaland representing the Moultrie Packing Company in Atlanta and Mr. Sam Smith representing it in Jacksonville, the product was shipped in carload lots; that there is some stuff returned and some stuff that is odds and ends that has to be sold at less than the market. As an example, if a car got in on Friday it had to be all sold by Saturday; that if they didn't get through by Saturday noon they would have to lower the prices to get rid of it; that in the trade that practice is called "clean-up" or "dumping ground." That it is not desirable to cut the price all over the city, so one dealer was picked to sell it to—generally had one man for that—didn't want to lower price all

over the city on the general market; that customer was
1299 called a "clean-up" man. Mr. Stanaland's "clean-up" man was the Sanitary Market Company; Mr. Smith's "clean-up" man was the Jeffries Market.

That the witness was familiar with the prices made by the Moultrie plant after Swift & Company bought the stock, while he was there; that those prices were not raised or lowered above or below the normal market value of the class of products the plant was selling; that they sold at the market; that at that time of the year it was generally raised a little, always do; that in the Summer of 1917 smoked meats, dry salt meats were going up and the price of hogs was going up.

That in the South he had built the following packing companies: One each at Moultrie, Ga., Waycross, Ga., Savannah, Ga., Tifton, Ga., Macon, Ga., Wilmington, N. C.; Chipley, Fla. That the enlargement of the plant by Swift & Company bettered the competitive live stock market by offering a market at all times, while under the old company embargoes were placed upon the receipt of hogs at various times; that the enlargement of the plant removed the necessity for the embargoes and saved the farmers possibly a dollar a hundred on their hogs; that if the packing house carries hogs overnight and there is a big shrinkage, and the death loss that they have to take care of which they necessarily had to charge to the live stock, that is, that was what the Moultrie Packing Company did.

1300 *Cross-Examination.*

That when he started the Moultrie plant he slaughtered hogs principally, which he bought within a radius of 75 to 100 miles of Moultrie, including towns in Alabama and Georgia. That he sold the pork products from these hogs as much as he could locally, also in Jacksonville, Savannah, Macon, Atlanta, Birmingham, and all towns of any size in that section. That he sold some lard in Chicago and New York and some hams in Jersey City.

That he sold to brokers in Atlanta, Jacksonville, Savannah, Macon, Augusta and Birmingham, and that he had two or three brokers working out of the house selling in the towns of Thomasville, Cordele, Bainbridge, Tifton, Valdosta and Quitman, and that was the situation when the stock of the Andalusia Packing Company was purchased by Swift & Company. That at that time Mr. C. H. Wallow came down from

Chicago as auditor in charge of the office, and Mr. Frank Luchsinger came down as Assistant Manager of the plant; that witness was the Manager of the plant. That Mr. Luchsinger and Mr. Wallow came to Moultrie about June 15, 1917. That Mr. Luchsinger was correct when he testified that he looked after recommendations on change in construction and organization of the sales force; in other words putting in Swift & Company's system throughout the plant.

1301 (By Mr. Taylor) Q. Now during this time that you were still there Stanaland was discharged in Atlanta, was he not, as broker?

A. I think he resigned; I could not say that for sure, I think he resigned because he was figuring on taking over the Tifton plant account and he was to get his new place with ice boxes there.

Q. Is it not a fact that he was written a letter by Moultrie Packing Company discharging him, and it was not until after he was discharged that any negotiations were opened up for taking over the account of the Tifton plant?

A. I think that Swift & Company offered him a job in Atlanta with the branch house, if I am not mistaken in that letter.

Q. I show you Commission's Exhibit 69 and ask you to read it and then answer the question which I last asked you.

A. This is October 22nd.

Q. And now will you please repeat the question?

A. I didn't know anything about him receiving a letter like that; it was along about the time I left Swift when they made arrangements—it was along about November 8th, I think, or along about that time.

Q. This letter of October 22nd was written by Mr. Luchsinger, was it not? I call your attention to the initials.

A. Yes, that is it.

1302 Q. How long was it before discharging Stanaland in Atlanta that Swift began selling pork through the branch house there, do you recall?

A. Well, I was with them up until November 8th; we were shipping Stanaland up until very close to that time; right direct from the house to Stanaland.

Q. You did not ship to Stanaland after this letter of October 22nd, did you?

A. Well, it would be right along about that time, I guess, when we stopped; I left the employ of Swift about November 8th.

Q. Now, the question is when did you start shipping your product to the branch house at Atlanta, how long before Stanaland was discharged?

A. I suppose it must have been a week or two; that is, they got a little stuff there right along, whenever they wanted anything they would wire the house and we would ship it to them, from this house here.

Q. May have been considerably more than a week or two, might it not?

A. Oh, they might have gotten some stuff right away, when we first started, when they ran short we would ship it to them.

Q. As a matter of fact, you had instructions, didn't you, to sell as much as you could through all of these branch houses from the time Swift acquired the stock?

1303 A. No, we had no instructions from Chicago that I seen; they said go on handling it as we was handling it.

Q. So you proceeded to discharge the brokers and sell through the branch house, was that the way you carried out those instructions?

A. I should say that was after I left there.

Q. No, you left there in November?

A. November 8th.

Q. You wrote to Stanaland discharging him on October 22nd. Now, I show you here Commission's Exhibit 107, copy of letter written by Stanaland to the Moultrie Packing Company, nine days before this letter was sent to him, discharging him, and ask you to read it and see if it refreshes your recollection on the handling of this product by the Atlanta branch house?

A. I remember that; he called me on that.

Q. Who called you?

A. Stanaland.

Q. You mean called you on the telephone?

A. On the phone, we got hold of the branch house right after that.

Q. Yes?

A. And got them in line with Stanaland, got them both together.

Q. Well, what influence did the Moultrie Packing Company have over the branch house?

1304 A. The Moultrie Packing Company—not the branch house, Swift's branch house in Atlanta or Macon, wherever they bought any of this stuff, they paid for it, we would

bill it to them the same as we would bill it to a customer; for instance, Stanaland would be handling five hundred pounds of loins, the branch house might order two or three thousand pounds, to fill some special order or cut in on the trade, we would bill it to them, and if they sold under that the branch house would have to stand the loss.

Q. The branch house had the right to sell at any price, any price they saw fit, didn't it?

A. The branch house had the right to sell at any price they saw fit, after they bought it.

Q. But you say you called up the branch house and got them in line, got them to promise to sell at the same price that Stanaland was selling?

A. No, I believe I called them up and told them to go and see Stanaland; Stanaland was right on 31 cents.

Q. Now, what is your recollection as to what happened?

A. I don't know, I don't remember.

Q. I show you Commission's Exhibit 108 and ask you to read that and see if it refreshes your recollection? Did you talk with the branch house again after getting that letter?

A. I don't remember this, don't remember seeing that one at all.

Q. Instead of taking the matter up again with the
1305 branch house you simply discharged Stanaland, didn't you?

A. I didn't discharge him.

Q. At least Mr. Luchsinger did, your assistant?

A. Well, he was going to leave anyway, Luchsinger knew it.

Q. Who said he was going to leave?

A. I think they all know about it.

(By Mr. Horton) Q. He had a right to discharge him if he wanted to didn't he, Mr. Brooks?

Mr. Taylor: I move to strike out the statement, "he was going to leave anyway, as not responsive to any question, a voluntary statement, contrary to all the testimony.

That the business was built up very rapidly, at various points he had brokers including Atlanta; that they picked up a trade fast in all those cities for their new plant; that they had their trade in good shape by the fall of 1915 and continued to grow right along through their brokers.

That the only places they could find a market for Moultrie products was in cities where other packers were selling; that the packers were represented in every city in the south

and they had to go to those cities or they would not be able to sell any products. That Swift sold products in Moul-
1306 trie in competition with the Moultrie Packing Company.

Swift & Company was not the first that figured on buying the plant. Armour was first and then Wilson. The amount of stuff we sold, I don't think bothered the packers any, not very much.

That all of the benefits which have come to Moultrie from the enlargement of the Moultrie Packing plant by Swift & Company would have come from the enlargement of the plant by any one; that as a matter of fact there are plans afoot in that section of the state for opening up, building and enlarging of plants for the killing of hogs.

Redirect Examination.

The supply of hogs around Moultrie is less now than it was in 1916 and 1917. That the high price of cotton caused the people to raise more cotton and less hogs; also there are more people in here to buy them now; that orders come to the stock yards from Cuba, St. Louis, Chicago, Cincinnati, Jacksonville, Birmingham, Atlanta, Montgomery and New Orleans.

Recross-Examination.

That in 1919 the plants at Macon and Tifton and Savannah were competing for the hogs in this market; that there were fewer hogs in this territory in 1920 than there were in 1917; that in his opinion it would run thirty per cent less, possibly a little more.

1307 A. It is essential to the handling of live stock profitably by the producer that he have a nearby market for his live stock.

Mr. Taylor: Now, I move to strike this out as a conclusion, of the witness, speculative, immaterial to the issues of this case.

Examiner Sadler: The motion to strike will be noted.

Q. What has Swift & Company done along that line here in Moultrie?

Mr. Taylor: I object to that as immaterial.

Examiner Sadler: The objection will be sustained.

Mr. Horton: May I ask upon what grounds?

Examiner Sadler: Irrelevant to the issues of the case.

Q. I will ask you to state in what way you have endeavored to build up better live stock, better grade, better quality, in this section of the community?

Mr. Taylor: I object to that as irrelevant and immaterial.

Examiner Sadler: The objection will be sustained.

Q. Mr. McDowell, I will ask you if you are in absolute charge of Swift & Company's business in this section of the community?

A. I am.

Q. I will ask you if you have knowledge of what Swift & Company is doing in this section of the community?

A. Yes.

Q. I will ask you if you are in complete possession of
1308 all the facts relating to different plants that Swift & Company may have directed toward live stock production in this country?

Mr. Taylor: That is objected to as calling for a conclusion of the witness, Mr. Examiner; how can he know what is passing in the minds of the heads of Swift & Company in Chicago; some of the things that they have in mind they may transmit to him, but he cannot say that they have all of the things; it would be necessary for him to be a mind reader to qualify him to answer that question correctly.

Examiner Sadler: The objection will be noted.

Mr. Horton: Read the question.

(Question read)

A. I am.

Q. Now, is it not true that you were consulted, your advice was asked, before any move is made down here?

A. Yes sir.

Q. Isn't it true that no move is made unless it is through you?

A. Yes sir.

Mr. Taylor: Now, Mr. Examiner, I must object to these questions as leading. I move to strike out the questions and answers.

Examiner Sadler: Motion to strike will be noted.

Q. Now, Mr. McDowell, I will ask you the question as to whether or not Swift & Company has endeavored to have the farmers here produce a better quality of hogs and a more even system of marketing?

1309 Mr. Taylor: I object to that as immaterial and irrelevant; calls for a conclusion; and as leading.

Examiner Sadler: The objection will be sustained.

Q. Mr. McDowell, I will ask you if the quality of the live stock produced in this section of the community has a direct bearing upon the number of pounds and the class of product that Swift & Company has been able to offer in the various markets through this section of the country?

Mr. Taylor: I object to that, immaterial and irrelevant, calls for a conclusion of the witness, and leading.

Examiner Sadler: The objection will be sustained.

Q. Mr. McDowell, what are the facts with regard to whether—with regard to whether a better quality of live stock and a more even marketing throughout the year will enable you to offer more meat in competition with other dealers?

Mr. Taylor: Just a minute; Mr. Stenographer, read that question to me, please.

(Question read)

Mr. Taylor: I object to that, Mr. Examiner, as irrelevant and immaterial to the issues in this case, and as calling for a conclusion of the witness; also as leading.

Examiner Sadler: The objection will be sustained.

Q. Mr. McDowell, please give us any facts which you may have that would show whether or not competition in this section and community, in the territory throughout the 1310 southeastern states, where you market your product, has been substantially lessened or restrained in this section and community, and throughout the same states?

A. During the period of which I have knowledge—

Mr. Taylor: Mr. Examiner, may I have an objection to this question as calling for a conclusion of the witness?

Examiner Sadler: Yes.

Q. (Continuing) Which would be from early in 1918, I can state that competition in the sale of packing house products in the vicinity of Moultrie and in the southeastern part of the states in which he had marketed Moultrie products, has materially increased.

Mr. Taylor: Now, Mr. Examiner, I move to strike out the answer as being a conclusion of the witness.

Examiner Sadler: Motion to strike will be noted.

Q. Now, please give us any facts in your possession which bear upon the part that Swift & Company has had in increasing this competition?

Mr. Taylor: I object to that as immaterial, and furthermore, for the reason that the issues in this case is simply the question of elimination of competition between the Moul-

trie Packing Company and Swift & Company; and other competition is irrelevant to the issues; and it is very apparent that this competition here referred to in the question, relates only to competition between Swift & Company and others than the Moultrie Packing Company.

1311 Examiner Sadler: The objection will be sustained.

Q. Now, Mr. McDowell, do you know in how many towns throughout the southeastern states Swift & Company has sold the Moultrie product?

A. Yes sir.

Q. Please state.

Mr. Taylor: I object to that as incompetent; the records are the best evidence.

Examiner Sadler: The objection will be noted.

Mr. Taylor: Mr. Examiner, do I understand that the respondent is to be permitted to put in evidence by oral testimony here the information which can only be had by examining records, and that secondary evidence will be received, not the best evidence?

By Examiner Sadler: Q. Are the records available?

A. Yes sir.

By Mr. Horton: Q. First, let me ask you, Mr. McDowell, if you know of your own personal knowledge, if you have checked this matter up and refreshed your recollection?

A. I have.

Q. Do you feel that you are thoroughly posted upon this question?

A. I do.

By Mr. Taylor: Q. How did you check up on it, Mr.

1312 McDowell? By examining the records?

A. I examined the records of the sales made by the Moultrie plant, and I obtained the record of the number of towns handled by our branch houses through our head auditor of the southeastern district.

Q. And you now propose to testify as to your recollection of what is contained in these records?

A. I can do so, yes sir.

Q. Is that what you now propose to do?

A. Yes sir.

Mr. Taylor: I again object to the witness being permitted to give this character of evidence, Mr. Examiner.

By Mr. Horton: Q. I will ask you whether or not it is a fact that you counted these towns?

A. Yes sir.

Examiner Sadler: If the records are available I will sustain the objection.

Q. How many towns, Mr. McDowell, are there in which Swift & Company does business? That is, in which Swift & Company sells the Moultrie product?

Mr. Taylor: Mr. Examiner, I think the records will show that, too, and I therefore object to that answer on the same grounds.

Mr. Horton: I will state to you, Mr. Taylor, that I think that it is perfectly competent for this witness to testify
1313 as to the number of towns in which this product has been sold or offered for sale. The witness has stated that he knows. Now, if on cross examination you wish the records produced, and you wish to read into the record what those towns are, I have no objection; we will be glad to furnish you the records.

Mr. Taylor: Yes, Mr. Horton, but this is affirmative proof that you are now offering, and under the rules of evidence, the burden is on you to show by the best evidence available, it is not on me to search for the best evidence available after you have offered secondary evidence, and then by cross examination bring out any errors which may exist.

Mr. Horton: I don't agree with you that it is secondary evidence; this is the best evidence available. I know of no better way of proving a fact than to prove it from a witness who has knowledge of the fact.

Examiner Sadler: The records are available, aren't they?

Mr. Horton: Yes, the records are available; that is, they can be gotten together, at great trouble and expense; we will get them together if you insist upon it.

Examiner Sadler: The objection will be sustained.

Mr. Horton: Mr. Examiner, I wish to make a statement for the record: We offer to show by this witness that the Moultrie plant of Swift & Company has sold the product itself in 331 towns, that the branch houses of Swift & Company in the southeastern states, including Atlanta, Jack-
1314 sonville, Augusta, Columbus, Macon, Waycross, Savannah, Tamp, Miami, Florida, Nashville, Chattanooga, Knoxville, Tennessee; sold the product or offered it for sale in 1589 cities and towns. These figures do not include four branches of Swift & Company in the state of South Carolina; that as yet we have not received any information from those branches, but we hope to produce it before this hearing closes.

1315 Examiner Sadler: The objection will be sustained, yes.

Mr. Horton: Mr Examiner, I would like to make a statement for the record. We offer to prove by this witness that the witness has worked with the farmers, worked with the agencies mentioned for the purpose of teaching the farmers how to raise hogs profitably. We also offer to prove by the witness that unless the farmer is shown how to raise hogs and how to care for and feed them, that the probabilities are that he will not do it at a profit, and he will become discouraged and will quit the live stock business, to the detriment of himself and the community at large.

Mr. Taylor: All of which, Mr. Examiner, I submit is entirely outside of the issues in this case.

Examiner Sadler: Recess until two o'clock.

(Whereupon, at 12:00 o'clock M., a recess was taken until 2:00 o'clock P. M.)

2:00 P. M.

After Recess

Examiner Sadler: The hearing will come to order. Regarding the request of Messrs. Mill & Gibson to examine witnesses, I will state that the privilege will be allowed.

Mr. Taylor: Mr. Examiner, I would like to ask in what capacity? Is it to be understood that Mr. Hill's firm appears here as counsel for the Chamber of Commerce, or as assistant counsel for Swift & Company?

Examiner Sadler: Associate counsel for Swift & Company.

1316 Mr. Taylor: Associate, I meant to say, of course.

Mr. Horton: Mr. Examiner, it might be well if you would show us just what instructions have been received in this case, let the record show it.

Examiner Sadler: Well, I have got some confidential instructions on this; I would rather not place them in the record at this time; I consider them confidential.

Mr. Horton: Do your instructions state with any certainty, as to whether or not Messrs. Hill & Gibson are appearing for the Chamber of Commerce or for the respondent?

Examiner Sadler: I said that they would be associated with the respondent; I think that was the wording of the telegram sent to the Commission asking that the privilege

be allowed, if they were associated with counsel for the respondent. I think your acquiesced in their request?

Mr. Horton: I have acquiesced in that request, but it is with the understanding that the Commission had made a definite ruling that they should not be allowed to appear for the Moultrie Chamber of Commerce. As I understand it, that was their first request, and the telegram you sent to the Commission asking for instructions asked for specific instructions upon those two points.

Examiner Sadler: Well, they come back they would be associated with counsel for the respondent, Swift & Company.

Mr. Horton: In order to clear this whole matter up, I
1317 suggest that we offer in evidence a copy of the petition filed by the Chamber of Commerce, to be attached to the record as an exhibit in the case. I accordingly offer a copy of the petition filed. There seems to be some confusion here as to whether Messrs. Hill & Gibson are appearing for the Chamber of Commerce or for the respondent.

Mr. Taylor: I object to this as an exhibit, as it is not evidence of anything except that Hill & Gibson prepared a petition to apply to intervene. I think it is an understood fact, the telegram submitted here by Mr. Gibson show it to be a fact, that they actually did make application to intervene, and that application has been denied, therefore this petition is irrelevant in the matter wholly; it is no evidence of anything that is not already before the examiner. As I understand it, the examiner has just stated that he has instructions to the effect that Hill & Gibson can appear before him here and examine witnesses as associate counsel with the counsel for the respondent, which it was stated by Mr. Hill yesterday was all he desired to do.

Mr. Horton: In view of the fact that Messrs. Hill & Gibson have received three telegrams from the Federal Trade Commission relative to their appearing in behalf of the Chamber of Commerce, it is not clear yet whether they are appearing for the Chamber of Commerce or not, or what the intention of the Commission is in that respect. I suggest that
1318 Messrs. Hill & Gibson go ahead and introduce what testimony they see desirable, but the question of who they are acting for or who they are representing be left open until the matter can be presented to the Commission.

Mr. Taylor: Mr. Examiner, as I understand the matter has been presented to the Commission; the Commission has

stated definitely in what capacity Hill & Gibson may appear here.

Examiner Sadler: As attorneys associated with the respondent Swift, it has been definitely settled by the Commission.

Mr. Horton: Well, I am glad to be informed that it is definitely settled. By whom has it been definitely settled?

Examiner Sadler: By the Acting Chairman of the Federal Trade Commission.

Mr. Horton: I don't understand that to be the case; I don't know what the secret instructions have to do with it, confidential instructions; certainly from all the matters that appear out in the open, I cannot see that it is definitely settled. I am further unable to understand why there should be any secret about any instructions relative to conducting the case at this time.

Examiner Sadler: Well, I consider them confidential.

Mr. Horton: I am unable to understand why you consider them secret or confidential.

Examiner Sadler: Well, we wont have any argument on the record as to that.

1319 Mr. Taylor: Have we a ruling here on this offer of this petition in evidence?

Mr. Gibson: I will state this about the offer of this petition: One of these telegrams from the Commission states that by arrangement with Swift & Company the Chamber of Commerce can present such testimony as it desires in support of the petition, though not as a separate party. It might be well to have it in the record for the guidance of the examiner in knowing what testimony could be presented.

Mr. Taylor: Appropos of that, I would like to ask if the examiner has instructions as to the scope of the testimony which Hill & Gibson are to introduce here? I think it would be well to get that on the record, if so, so that there may be no misunderstanding, either by Hill & Gibson or by counsel for the Commission.

Examiner Sadler: In view of your question, I think I will read this telegram right into the record; then.

Mr. Taylor: I think counsel on both sides should know the instructions to the examiner as to the scope that this testimony is to be received upon, so that each may know exactly what its duties are in that respect.

Mr. Gibson: We thought perhaps you would rather have

this in the record as a matter for your own information, to know what the Chamber was seeking to present.

Examiner Sadler: I will read into the record a copy
1320 of the instructions I received from Washington, in answer to the telegram sent there yesterday. "Washington, D. C. July 12, 1921, Clarence T. Sadler; Examiner Federal Trade Commission, Moultrie, Georgia: You will permit Hill & Gibson as attorneys associated with respondent Swift to examine witnesses and adduce such evidence as they may desire relative to the alleged suppression of competition in Moultrie stop. Do not go into conditions elsewhere. Gaskell, Acting Chairman." You may proceed, gentlemen, along those lines.

Mr. Taylor: You have not ruled on this thing yet.

Examiner Sadler: In view of the telegram received, I do not consider the petition for intervention relevant to the issues of this case, therefore I will sustain Mr. Taylor's objection to it.

Mr. Gibson: I want this petition marked for identification.

Examiner Sadler: The petition will be marked "Respondant's Exhibit B-4 for identification."

(Whereupon the petition was marked "Respondent's Exhibit B-4 for identification."

R. A. STRATFORD was thereupon called as a witness and having been duly sworn, testified as follows:

Direct Examination by Mr. Gibson.

Q. Mr. Stratford, in what work are you engaged?

A. I am county agent, representing the extension
1321 division of the Georgia State College of Agriculture, and the United States Department of Agriculture cooperating.

Q. How long have you been engaged in this work?

A. Since 1915 for the Government; prior to that time I was doing extension work in south Georgia for the Southern Railway Company.

Q. How long were you assigned to—located in south Georgia in that work?

A. From the 1st of January, 1913, until I believe it was the 1st of February, 1915, when I came here in the Government employ.

Q. In your agricultural extension work, have you any particular line that you specialize in or that is a hobby with you?

A. Well, my main lines of promotion in this county have been in the promotion of—in other words, a more extended live stock industry, to try to correct the fundamental errors being made by the producers, and in an effort to make the marketing more systematic throughout the year, as well as raise the standard of the product and also to increase the volume of live stock in the territory.

Q. How long have you been familiar with the live stock conditions generally in south Georgia?

A. Since 1913.

Q. Perhaps—prior to that—prior to the time that Swift & Company acquired the plant of the Moultrie Packing Company at Moul'rie, was Swift & Company a purchaser of 1322 live stock in this section of Georgia?

A. No sir, not that I know of.

Mr. Taylor: Mr. Examiner—just a minute—Mr. Examiner, I am wholly unable to see what all of this had to do with the alleged suppression of competition in Moultrie?

Mr. Gibson: There can be competition in commerce, in buying as well as in selling of the product. I think we will develop later that it had an effect on the selling also.

Mr. Taylor: What wa sthat statement counsel made

(Statement of Mr. Gibson read)

Mr. Taylor: What was that statement counsel made? suppression of competition in buying; the only competition that is specially mentioned in the complaint is in the selling.

Q. I will ask you this question, Mr. Stratford. Would competition in the buying of live stock have any bearing or relation to the competition in the selling of live stock products?

A. Well.

Mr. Taylor: I object to that; it is an opinion of the witness.

Examiner Sadler: The objection will be noted.

Q. Go ahead and answer it.

A. Prior to the opening of this plant here there was no sale for live stock at all in this territory; beyond the home supply and the butcher, you know. Now, this is a market for live stock.

Q. After this plant was opened, was Swift a buyer in this field?

A. No sir.

1323 Q. This territory?

A. No sir, they had no plants in this territory.

Mr. Taylor: Mr. Examiner, I would like to have an objection to that question, that is the same one I previously objected to, upon which I believe there was no ruling.

Examiner Sadler: The objections will be noted.

Q. Were you familiar with the live stock conditions under which—live stock conditions existing in this territory under which the Moultrie Packing Company operated?

A. Yes sir.

Q. What were they?

A. Well, at the time the plant was opened up here, we were producing live stock strictly under open range conditions. The open range still prevails in this territory, but a greater number of producers are keeping their live stock in pastures. The live stock industry was more or less haphazard back in those days.

Mr. Taylor: Now, Mr. Examiner, I move to strike that all out; it is not relevant to any of the issues of the case, and not within the scope of the instructions.

Examiner Sadler: Motion to strike will be sustained.

Mr. Gibson: I think its relevancy might be made to appear later on, when we connect it up.

Examiner Sadler: Well, we can consider its relevancy later on.

Mr. Gibson: If it is not connected up it can be

1324 stricken then.

Examiner Sadler: We can leave it stay the way it is until later on, at a later period.

Q. Were you familiar with the intention or purpose of the stockholders and promoters of the original packing plant here, the Moultrie Packing Company?

A. Yes sir, it was to afford a market for live stock.

Mr. Taylor: One minute, the answer to that question is yes or no.

A. Yes sir.

Q. I say, were you familiar with it, you can answer that yes or no.

A. Yes sir.

Q. What was the purpose, the idea of the promoters of that plant?

Mr. Taylor: Mr. Examiner, I object to that as immaterial to the question at issue here; I further object to it on the

ground that no foundation has been laid; we have nothing by which we can question the familiarity of this witness with those plants.

Examiner Sadler: The objection will be sustained.

Q. State, Mr. Stratford, what was your opportunity for knowing the purpose and intention of the stockholders and promoters?

A. From having worked on the territory and from having discussed the matter with the promoters and stockholders of the packing company.

Q. Did that come within the scope of your employ-
1325 ment here as county agent?

A. It was right in line with my work; we were seeking to defeat the bool weevil, and we needed money crops other than cotton to sustain our prosperity.

Q. Are you familiar, from those things, with the idea and purpose of the stockholders and promoters?

Mr. Taylor: I object to that as calling for a conclusion of the witness.

Examiner Sadler: The objection will be noted.

Mr. Taylor: Also as leading.

Examiner Sadler: The objection will be noted.

Q. You can answer the question?

A. Yes, I was familiar with it.

Q. And from that source?

A. Yes sir.

Mr. Gibson: Q. I think that qualifies him to answer the question previously asked.

Mr. Taylor: I make the same objection that I previously made, Mr. Examiner, the same objections that I previously made.

Examiner Sadler: The objections will be sustained.

Mr. Gibson: May I ask on what grounds it is sustained?

Examiner Sadler: Read that testimony from the first question asked.

(Testimony read.)

Examiner Sadler: I think Mr. Taylor's objection
1326 covers your question.

Mr. Taylor: I might add, Mr. Examiner, that this whole answer sought to be elicited is hearsay; no opportunity to cross examine him as to who made the statements to this witness; does not even disclose the identity of the various persons who made the statements to him.

Mr. Gibson: Do the rules of the Commission require that the strict rules of evidence be followed in these hearings?

Examiner Sadler: That is in the discretion of the examiner.

Mr. Gibson: No direct ruling made on it by the Commission one way or the other? Well, I can prove those facts by other witnesses who I think would have a better opportunity for knowing and whose sources of knowledge could be cross examined.

Q. You say at the time that this plant was organized there was about to be a boll weevil invasion?

A. Yes sir.

Mr. Taylor: Well, now, Mr. Examiner, I must object to that question, and move to strike out the answer; it was made while I was objecting; I submit that this witness cannot say what the boll weevil was going to do.

Q. I will ask you, Mr. Stratford, what had he been doing?

Examiner Sadler: The motion to strike will be sustained.

A. The boll weevil was approaching very systematically, reached this county in 1915, early in August in 1915; his approach was accurately forecast by the Bureau of
1327 Etomology; they predicted when he would reach here.

Mr. Taylor: Now, I move to strike out this statement about predictions.

Mr. Gibson: You can strike that out.

Examiner Sadler: The motion to strike will be sustained.

Mr. Gibson: As to predictions, I presume?

Examiner Sadler: Yes, that is all he has asked for.

Q. Were you familiar with the sort of trail that the boll weevil had left from the Texas line as he progressed eastward?

A. Yes sir, the boll weevil had—

Mr. Taylor: I object to this as immaterial, irrelevant and immaterial.

Examiner Sadler: The objections will be sustained.

Q. What were the live stock conditions here under which the Moultrie Packing plant began operation?

A. We had had no commercial live stock industry up to that time; it was purely a matter of home supply; the hogs and cattle running on the open range.

Q. What was the effect upon the raising of live stock in this section caused by the operation of the Moultrie packing plant?

A. It caused—the breeders of hogs began more careful husbandary, they looked on it as a source of money.

Q. With particular respect to the number and size of the supply of hogs?

A. The census report shows an increase of some-
1328 thing over ten thousand hogs in the past ten years in this county.

Mr. Taylor: Now, Mr. Examiner, I move to strike that answer out as incompetent.

Examiner Sadler: The motion to strike will be noted.

Mr. Taylor: That is no way to prove censue reports. I also move to strike it out as not responsive to the question.

Examiner Sadler: Motion to strike will be noted.

Q. Were you here, Mr. Stratford, at the time the Moultrie Packing plant was operating, the first year or two?

A. I was here the first year they operated, yes sir.

Q. Were you familiar with its capacity and size?

A. Not exactly, no.

Q. I don't mean as an engineer, but generally, so as to know about what number of hogs it could take care of?

A. I was told at that time that they took care of—

Mr. Taylor: One minute, I object to what he was told.

Examiner Sadler: The objection will be noted.

Mr. Taylor: You mean to say that this witness can go on here and give hearsay evidence as to the capacity of this plant? If it is relevant to the issues here, why don't they have it proved by real evidence, not by what somebody told somebody else, or what somebody heard somebody else say about it?

Mr. Gibson: I don't insist on that; I don't intend to try to show the exact number of hogs it could kill per day or hour; I think there is an exhibit in the record that
1329 shows that all ready; the point I wanted to develop, Mr. Stratford, is the size of the plant before and after Swift acquired it.

A. Well, it has been enlarged since Swift acquired it; the plant is very much larger.

Mr. Taylor: Now, Mr. Examiner, I must submit that this is not the proper kind of evidence of that; Swift & Company has certainly got records showing what they did, that is the proper way to prove what they did; not what somebody saw or had been told was done.

Q. I will ask you now, before you answer that one, has the enlargement been of sufficient size as to be evident, and

visible to anyone, whether he be an expert or whether he has measured the size of the plant, before and after?

A. It is, yes sir.

Mr. Taylor: And the net result of your testimony is that there has been an enlargement since Swift & Company bought the stock of the plant?

Q. Yes sir. Has that enlargement been of any consequence?

Mr. Taylor: I object to that.

Examiner Sadler: The objection will be noted.

Mr. Taylor: If it is material whether it is of any consequence, I submit the proper proof is what the enlargement has amounted to.

Q. Were you familiar with the old plant at the time its construction was completed?

1330 A. Yes sir, been all over it.

Q. What is that that you have before you?

A. This is a picture of the original Moultrie Packing Company, before Swift & Company bought it out.

Q. Are you familiar with that plant since Swift & Company acquired it?

A. I am familiar with it, yes sir.

Q. He has completed its enlargement?

A. Yes sir.

Q. What is the picture I now hand you?

A. This is a picture of the present plant of Swift & Company. I went all over both plants.

Q. Well, do you know that those are correct pictures?

A. Yes sir.

Mr. Gibson: I tender you these as exhibits, either now or later, as you prefer.

By Mr. Taylor: Q. Do you know the days when these respective photographs were taken?

A. No sir, I did not make these photographs.

Q. Were you present when they were made?

A. No sir, but I am thoroughly familiar with both plants; I recognized them instantly.

Mr. Taylor: Well, now, may I cross examine him as to these photographs, for the present?

1331 Mr. Gibson: Yes sir.

By Mr. Taylor: Q. Taking this photograph which I hand you now, which I presume was made earlier than the other photograph, and looking at that, can you state about when it was made?

A. Bout 1915.

Q. I will ask you what enables you to fix the date as 1915?

A. Because I recall that this was the appearance of the plant in 1915; this picture was made from the north side of the plant.

Q. And there is apparently lumber lying around, evidences of an incomplete state of the plant there, isn't there?

A. I see lumber in the picture, yes sir.

Q. Wasn't that plant completed in 1915?

A. It was a complete plant when I came here in 1915, yes sir, but the plant shows evidence of completeness here.

Q. Shows evidence of incompleteness, also, doesn't it?

A. I see no connection between the lumber and the plant.

Q. Do you want to have it understood on the record that you swear that that plant had no additions built onto it which do not appear in this picture, up to the year 1915?

A. None that I know of, I said about 1915.

Q. What do you mean by 1915, the beginning of 1915 or the end of 1915?

A. I recall that when I came here about the 1st of February, 1915, that this was the appearance of the plant.

1332 I was told by the people who opened up the plant that they had completed and began operations in either November or December of 1914.

Q. Were there any more additions made after you came here in 1915?

A. There was none made while I was here.

By Mr. Gibson: Q. That is, by the Moultrie Packing Company?

A. Yes sir.

By Mr. Taylor: Q. That is what I mean, before the sale of the stock to Swift & Company, in June 1917? Your answer is the same, that there were none?

A. There were none that I know of, no sir.

Q. No additions made? No improvements made?

A. There was no enlargements made, I will say there were no enlargements made.

Q. You have testified to an intimate knowledge of this plant, if you have such an intimate knowledge of the plant, I submit that you should not qualify your answer by "none that you know of," because if you have the intimate knowledge that you have claimed to have, why, you knew that there were no additions or improvements?

A. I will say there were no enlargements; they may have made some interior changes in that plant; they may have changed some machinery or something like that, that
1333 I would not know; I was not a packing house man, I did not inquire into those things.

Q. Just what did you inquire into?

A. I was interested in knowing that the plant was operating, and furnishing a market for live stock, so that these farmers here would have a money crop other than cotton. I busied myself with encouraging production.

Q. Just what did you inquire into with regard to the state of this plant and its physical condition?

A. Well, I went all over this plant; I walked through all of those coolers and killing rooms.

Q. When?

A. Why, many times in 1915, so many times that I don't know how many times I went through it; one of the first things I did when I got here was to go through this packing plant.

Q. You went through all of the rooms in this packing plant at that time?

A. Went through the killing rooms and the coolers and the engine rooms.

Q. How many of these coolers did it have?

A. I don't recall.

Q. How many of these killing rooms did it have.

A. Two; one for hogs and one for cattle.

Mr. Gibson: I call your attention to this: The picture does not purport to be anything except a picture of the exterior of the plant.

1334 Mr. Taylor: The trouble with it is I don't think the witness knows at what stage it was a picture of the exterior of the plant, or at what time it was a picture of the exterior.

Q. Now, you don't know within a year or two when this picture was taken, do you, to get right down to the actual, exact facts?

A. Yes, I do.

Q. What date will you fix?

A. I don't think I ought to be asked to fix a date, because I did not take the picture, but inasmuch as the plant had been completed late in 1914, when I came here in 1915, early in 1915, I found that to be the general appearance of the

plant; I recognize that as being the original plant of the Moultrie Packing Company.

Q. When did you see this picture first?

A. I don't know that I ever saw it before this afternoon; I have never seen it that I know of.

Q. Then the net result of your testimony is that according to the best of your recollection, the plant looked like this picture in 1915, that is about all you can testify to, isn't it?

A. I can testify that that is a picture of that plant when I came here, that is the appearance of the plant when I came here, the plant itself; I won't swear that that pile of lumber was there.

Q. How about the pile of pipes and apparently scrap lumber, how about that?

1335 A. I have no record of that. Made no note of it, then.

Mr. Taylor: I would like to have them marked for identification.

Examiner Sadler: The pictures will be marked B-5 and B-6 for identification.

Mr. Taylor: Mr. Examiner, I suggest that the picture regarding which I have just been questioning the witness be marked B-5 and the other one B-6.

Examiner Sadler: If there is no objection, they will be marked that way.

(The pictures were thereupon marked for identification, Respondent's Exhibit B-5 and B-6 respectively.)

By Mr. Gibson: Q. Since the acquisition of the plant by Swift & Company, Mr. Stratford, what has been its policy in so far as you know, in so far as you have come in contact with it, with that policy, toward the promotion of the live stock industry in this section?

Mr. Taylor: Mr. Examiner, I object to that question, too indefinite and uncertain, fixes no period of time; I further object to it on the ground it calls for a conclusion of the witness; I further object to it on the ground that it is irrelevant and immaterial.

Mr. Gibson: I asked him in so far as he knew, in so far as it came personally in contact with him.

Examiner Sadler: Read the question, please.

1336 (Question read.)

Examiner Sadler: The objection will be sustained.

Mr. Taylor: I will state, Mr. Gibson, for your information, that there is an understanding that either counsel shall

have the benefit of exceptions to any ruling of the examiner, without expressly asking for one; I assume that that stipulation will cover the testimony you are now taking as well as which has been heretofore and will be hereafter introduced by Mr. Horton.

Q. What has been the effect of the acquisition of this plant by Swift & Company upon competition in the purchase of live stock in this section?

Mr. Taylor: Mr. Examiner, that is objected to, as calling for a conclusion, absolutely, of the witness, not calling for any facts, opening the gates for him to wander fancy-free through the realms of speculation.

Mr. Gibson: I think he anticipates and presupposes the answer of the witness; he might state facts, might not wander off into fancy.

Mr. Taylor: I can only object to the questions.

Examiner Sadler: The objection will be noted.

Q. Answer the question.

A. We have more competition now, because we have two live stock yards, one in Georgia and one in Alabama, on which commission firms are buying live stock, offering
1337 a market through Swift & Company here.

Q. Has one of those plants—

Mr. Taylor: Just one moment. Mr. Examiner, I move to strike out the answer of the witness as being all that I anticipated in my objection to the question that it would be, and furthermore, not responsive.

Examiner Sadler: The motion to strike will be noted.

A. I might add one of those yards is at Montgomery and one at Moultrie.

Q. Take up the one at Moultrie—

Mr. Taylor: I wish to extend my motion to strike to the further answer that the witness has made.

Examiner Sadler: All right.

A. The yards at Moultrie have—now afford competition, because we have commission men buying live stock and shipping them into foreign markets, furnishing competition for Swift & Company; Swift & Company aided in the promotion of those yards, gave it their moral support.

Q. How do you know that to be a fact?

A. Mr. McDowell, manager of Swift & Company, asked me in person to do all that I could to help promote the Moultrie Stock Yards.

By Mr. Taylor: Q. How much of the stock of the Moultrie Stock yards is owned by Swift & Company?

A. They don't own any.

1338 Mr. Taylor: I move to strike this answer all out as not responsive at all to the question.

Examiner Sadler: The motion to strike will be noted.

Mr. Gibson: You mean to your question?

Mr. Taylor: No, I mean the answer regarding which I have asked this information.

A. Swift have no stock, in the Moultrie Stock yards company.

By Mr. Gibson: Q. Were you instrumental in the organization of the Moultrie Stock Yards?

A. Yes sir.

Q. Did Swift & Company at Moultrie cooperate with or object to the organization of a stock yards here that would have competitive buying of live stock?

A. They cooperate whole heartedly in organizing the stock yards.

Mr. Taylor: That is objected to.

Examiner Sadler: The objection will be noted.

Q. In your opinion would the establishment of a stock yard here have been practical or not if Swift & Company had not enlarged the plant after having acquired it?

A. No sir.

Mr. Taylor: Oh, Mr. Examiner, I object to this as entirely too speculative.

Examiner Sadler: The objection will be sustained.

Mr. Taylor: I believe the answer was made while I 1339 was objecting; I therefore move to strike it out.

Examiner Sadler: The motion to strike will be sustained.

Mr. Gibson: That would depend upon his opportunity for knowing.

Q. Are you sufficiently familiar with the live stock industry in this section—

A. I am.

Q. To say whether or not—

A. I am familiar with the live stock industry in this section.

Q. A stock yards would be practical here?

A. What was the question?

Q. I say, are you sufficiently familiar with it to be able to say whether a stock yard were practical here, with com-

petitive buying, would have been practical here, at the time it was established, if Swift & Company had not enlarged its plant?

Mr. Taylor: Mr. Examiner, I object to the question as calling for a conclusion of the witness.

Mr. Gibson: I asked a question to be answered yes or no.

Mr. Taylor: I know you did; he answered it yes before you had an opportunity to ask more than half of the question.

A. I misunderstood the question; I thought he asked me if I was familiar with the live stock industry in this section. I am.

Mr. Gibson: What was the ruling on the last question that I asked?

1340 Examiner Sadler: Read the question and the objection.

(Question and objection read.)

Mr. Taylor: Mr. Examiner, I wish to say that if there are any facts in regard to this stock yard which are relevant to the issues of this alleged suppression of competition in this neighborhood, in and about Moultrie, that those facts should be shown in the proper way, not what some one thinks or guesses or comes here prepared to say that he thinks about them, about the situation.

Mr. Gibson: Perhaps he can go into the facts which he knows in this locality, if you will let him answer.

Examiner Sadler: Does your question ask for a no or yes answer?

Mr. Gibson: Yes sir, I asked him if he was sufficiently familiar with it to be able to answer, if he was sufficiently familiar with the live stock industry here.

Examiner Sadler: The objection will be sustained.

Q. Stratford, in establishing a stock yard, what are the essentials?

A. First, the supply of your live stock.

Q. What is a further essential?

A. Competitive buying.

Q. What will produce competive buying?

A. It takes more than one buyer to have competitive buying; we only had Swift & Company here as a market

1341 prior to the organization of the stock yards.

Q. What is the relation between a market and the

supply of hogs, or competitive buying, competitive bidding for hogs?

A. I don't know that I understand your question.

Q. What do men that buy hogs do with them?

A. They slaughter them.

Q. I will ask you what is—

A. Convert them into the finished product.

Q. I will ask you what is the relation between a packing house and the stock yards?

A. The packing house, of course, buys hogs from the stock yards; buys them in the stock yards for slaughter, to convert into the finished product; it is essential to the operation of the packing house that we have hogs here, so that the organization or the stock yards was welcomed as furnishing a competitive market, drawing hogs to Moultrie.

Mr. Taylor: Now, Mr. Examiner, I move to strike out the last part of this answer, the statement that the stock yards was welcomed as furnishing a competitive market, not responsive, furthermore, it is a conclusion of the witness.

Examiner Sadler: The motion to strike will be noted.

A. The fact remains that we have commission men buying hogs on the yards in competition with Swift & Company; that is not speculative.

Q. Mr. Straford, what is the effect of enlarging the
1342 packing house upon the demand for hogs, or upon competitive bidding for hogs?

Mr. Taylor: Now, Mr. Examiner, I object to that question, as not stating all of the elements or all of the conditions which are necessary to enable the witness to formulate an intelligent opinion; I also object to it as calling for an opinion, not for any facts.

Mr. Gibson: I will modify the question.

Q. I will ask you to take into consideration as many of the elements as you know when you answer the question, as many of the elements and conditions as you know.

Mr. Taylor: I still object to it.

Examiner Sadler: The objection will be noted.

A. Repeat the question.

Mr. Gibson: Read the question to him.

(Question read.)

A. The fact is that the increased capacity of the plant here can care for a large number of hogs, making the establishment of yards a sure venture, and making a stable market, because of being able to slaughter those hogs.

Q. Since Swift & Company have acquired—

Mr. Taylor: One minute, I would like, if I may, to ask the witness right at this time if he means to say that a large packing house necessarily means a large slaughter of hogs?

A. They have to get the hogs to slaughter.

1343 Mr. Gibson: I think he meant to say there was capacity for a greater slaughter.

A. They cannot slaughter a large number of hogs without having capacity to do it, that is apparent.

Q. Are you familiar with the capacity of the old Moultrie Packing Company for slaughtering hogs in relation to the number of hogs it received during the fall and winter months?

A. I recall that they were unable to slaughter—

Mr. Taylor: One minute, the answer to that will be yes or no.

A. Repeat the question please?

(Question read.)

A. Yes.

Q. What was that?

Mr. Taylor: I object to that.

A. Hogs accumulated on the yards.

Mr. Taylor: One minute I object to that as hearsay, incompetent and irrelevant.

Mr. Gibson: I don't think it is hearsay, I asked him if he knew, and he said he did.

Mr. Taylor: Yes; I think if you had gone a little further and asked him how he knew he would have said somebody told him about it.

Mr. Gibson: You can bring that out on cross examination if you want to.

1344 Examiner Sadler: The objection will be sustained.

Q. Did you visit at regular or frequent intervals the Moultrie Packing Company during the killing season, that is in the fall and winter months, prior to this acquisition by Swift?

A. No, I was away from here during the heavy killing season in 1915.

Q. Were you there in 1916?

A. No, I was in middle Georgia in 1916.

Q. Were you there in 1917, before the plant was enlarged by Swift?

A. No. I came back here to Moultrie the first of January, 19y9.

Q. I will ask you this, then, did you yourself see any embargo upon the hogs at the plant here?

A. No, I did not see it; I got the facts from the county agent who was located here.

Mr. Taylor: I move to strike out his statement he got the facts and all that followed.

Examiner Sadler: The motion to strike will be sustained.

Q. Do you know of anything that Swift & Comppany has done to lessen competition in buying hogs in this section, or live stock generally?

A. No.

Mr. Taylor: I object to that, Mr. Examiner, as calling for a conclusion of the witness.

Examiner Sadler: The objections will be noted.

1345 Mr. Taylor: I move to strike out the answer as a conclusion, pure and simple, not a statement of any fact at all.

Examiner Sadler: The motion to strike will be noted.

Q. Mr. Stratford, is there any relation between the number of hogs available for slaughter to a packing house and the amount of finished product put upon the market?

Mr. Taylor: I object to that, it is calling for a conclusion, the conclusion of an expert packer, a man who is necessarily possessed of a great deal of knowledge that this witness has not shown to be possessed of.

Mr. Gibson: Well, if he knows he can testify to it, if that comes within his line of study.

Examiner Sadler: The objection will be noted.

A. Well, it is apparent that a packing plant would not put out much of the finished product on the market without having live stock to slaughter.

Mr. Taylor: I think that is a fact that any court will take judicial notice of.

Q. Well, is the amount of finished product available to the packer to offer to consumption in direct proportion to the number of hogs available for slaughter?

A. So, absolutely so, yes.

Mr. Taylor: I object to that, calls for a conclusion of the witness, not comprehending all of the conditions necessary to be taken into consideration in making any intelligent answer.

1346 Q. Mr. Stratford, would the amount of packing house products moved upon the market for sale increase

as the amount of raw material to be manufactured into packing products increased?

A. Yes sir.

Mr. Taylor: That is objected to. Now, Mr. Examiner, the witness is so willing to answer that I am unable to get my objections on the record before he has answered; therefore I am compelled to ask that the last two answers be stricken out.

Mr. Gibson: Well, you may have your objection precede the answers.

Examiner Sadler: The motion to strike will be noted. I will just ask the witness not to answer it until the objection is in.

Q. Now, you can answer.

Examiner Sadler: He has already answered the question.

Q. Now, what is the relation of competition in the sale of packing house products to the amount of packing house products that move into the market for sale?

Mr. Taylor: Now, one minute. Will you please read that question to me?

(Question read.)

Mr. Taylor: I object to that, calls for a conclusion of the witness, and as being incomplete, as presented a problem which is impossible to solve, because of the absence of many conditions which would have a bearing upon the answer, and furthermore, as irrelevant to the questions now before the examiner.

1347 Examiner Sadler: I believe we are getting outside of the scope of the issues here.

Mr. Gibson: I thought the issue was competition, and we was just about the approach of that subject now.

Examiner Sadler: I will call your attention to my instructions, and I will ask you gentlemen to limit yourself accordingly. The objection will be sustained.

Q. Mr. Stratford, the larger the number of hogs slaughtered, the—or the larger the number of hogs raised, either, the larger the number there is available for consumption, isn't that true?

A. Yes.

Q. Now, what is the relation between the number available for consumption and the number thrown upon the market?

Examiner Sadler: Just a second; I have asked you gen-

tlemen to limit your examination in accordance with the telegram there. I believe you are going into all generalities all over the country.

Mr. Gibson: Of course, the scope of that question could be limited to this immediate section.

Mr. Taylor: Mr. Examiner, it seems to me that this is indulging in speculation and generalities and will not get us anywhere. If there are any facts relevant to these issues, it would be my suggestion to take a shortcut and introduce those facts, and then speculate on them later, but at least to put the Commission in the position where they can do the speculating.

1348 Mr. Gibson: We want to show the effect upon competition right here, what effect the increased number of live stock available for packing house purposes, or what enlargement of the raising of live stock would have to do with competition in this locality.

Examiner Sadler: That has nothing to do with the suppression of competition?

Mr. Gibson: In this immediate section and county.

Q. Mr. Stratford, what would you say that the encouraged production of hogs by Swift & Company has had to do with competition here, either in the sale of the live stock or the finished product?

Mr. Taylor: I object to that, Mr. Examiner, as calling for a conclusion of the witness; object to it as calling for conclusions based upon no facts in evidence, no facts shown, and as wholly incompetent and irrelevant.

Examiner Sadler: The objection will be sustained.

Q. Has the acquisition of this plant by Swift & Company tended to encourage the production of live stock or has it lessened competition in live stock here?

Mr. Taylor: I object to that, Mr. Examiner, as an attempt to substitute the witness for the Commission.

Q. I will modify it by this: In so far as your observations are concerned, in so far as your work in the live stock business has come in contact with the fact of that ac-

1349 quisition of this plant by Swift & Company?

Mr. Taylor: I object to that question on the ground that it calls for a conclusion of the witness, based on matters outside of the record, matters upon which we have had no proper—will have no opportunity to cross examine, no opportunity to know what it really is based upon.

Mr. Gibson: I am going to turn him over to you for cross-examination in a minute.

Examiner Sadler: The objections will be noted.

Q. You may answer the question.

Mr. Taylor: Read the question, please.

(Question read.)

A. Swift & Company have stimulated the production of live stock in every way that they could.

Q. State how?

A. Well, they have distributed at great expense literature showing the proper methods of production of hogs and cattle; they gave away thirty white faced bulls, Hereford bulls, to farmers in the territory.

Examiner Sadler: I don't think this has anything to do with the issues of this case, what Swift & Company did.

Mr. Taylor: I move to strike out the answer entirely, as not responsive and entirely outside of the issues.

Mr. Gibson: Our position in the matter would be that to encourage the production of live stock, that the in-
1350 creased production of live stock tends to increase production both of the purchases of live stock as raw material and in the sale of the finished product, and our question is limited to this particular locality. I think that ought to come within the scope of this hearing so far as the intervention of the Chamber of Commerce is concerned, or so far as the facts which they have been permitted under order of the Commission to show, because it has a direct bearing upon competition here.

Examiner Sadler: Well, I will let it go in.

Mr. Taylor: Mr. Examiner, do I understand that my motion to strike out is overruled?

Examiner Sadler: It is noted; I will let it go in for what it is worth at this time.

A. I did not finish answering the question. Swift & Company have given prizes in the form of tankage for hog feed, a pure bred sow to my pig club last year; this year they are offering seven free scholarships to my pig club, sending boys to the short course in agriculture to be held at the College of Agriculture.

Examiner Sadler: Just a second; I dont see what that has got to do with competition.

A. It is to encourage production, though.

Examiner Sadler: We are not getting at the production, we are getting at the competition.

Mr. Gibson: Well, our contention would be that the
1351 effect of an increased production is increased competition.

Q. Has the effect of the interest taken by Swift & Company in the live stock industry as stated by you been to stifle competition or to increase the competition in the live stock business in this county?

Mr. Taylor: I object to that, Mr. Examiner, that is calling for a conclusion of the witness, is calling for a conclusion which may be based on many things not included in the question, many things not shown in evidence, and based very largely on the imagination of the witness.

Q. I will supplement the question by adding, so far as your line of work has brought you in contact with the live stock business and with the effect of these things that you named in this county.

By Examiner Sadler: Q. Just a second. I would like to ask the witness a question. Do you buy and sell pork?

A. No sir.

Q. Hogs?

A. No sir.

Examiner Sadler: The objection will be sustained.

Q. Is it your business to advise the farmers in the raising and marketing of live stock and packing house products?

A. It is in the raising and marketing of live stock.

Q. That is what I should have said. Have you given
1352 any considerable study to that subject?

A. I have.

Q. Have you given your time and attention to it in this county in a practical way?

A. Yes, sir.

Q. From these sources, would you be able to answer the question asked you, from your knowledge obtained in that way?

A. Repeat the question, please sir?

Q. The one that he objected to a minute ago?

(question read)

A. They have increased competition by aiding in establishing the stock yards, competition in buying.

Q. But the thing we were on was the general effect on the live stock business in this county, as you are familiar with it from your work, from working with and cooperating with the people and from study of the conditions in this county?

Mr. Taylor: One minute, will you please read that question?

(Question read)

Q. That is to say, the effect of the interest and activities of Swift & Company which you named a while ago upon the competition in live stock in this county. Mr. Stratford, what is the province of a county agent?

A. The province of a county agent is educational work.

Q. Is it theoretical or practical education?

A. It is practical education; it is carrying to the
1353 farmer those facts which have been proven by experimental stations and gricultural colleges by research and demonstration.

Q. What part of your time do you spend in the county among the farmers in carrying on that work?

A. My entire time is spent among the farmers, what time I am not in the office doing routine work in the office.

Q. What opportunity do you have for observing the live stock industry in the county, among the farmers?

A. I have first hand knowledge of it, being familiar with the operations of the producer, knowing how they conduct their business.

By the Examiner: Q. Do you know how many hogs each farmer sells, how many he buys; how many he raises?

A. No, I dont know, I dont keep a record of the individual farmer's operations.

By Mr. Gibson: Q. When you go into the county calling on the farmers, do you take up with those that you do call upon the relative number of hogs and cattle and other live stock that he is raising from time to time, from year to year?

A. I discuss those matters with him, yes sir.

Mr. Taylor: Mr. Examiner, I would suggest that counsel let the witness state what he really does do.

A. I stated that I was doing educational work, cor-
1354 recting the mistakes in production, advocating improved methods of production so as to increase the products.

Examiner Sadler: Has that got anything to do with competition, with suppression of competition?

Mr. Gibson: If they produce a better grade of live stock—

Examiner Sadler: Oh, we are getting down to a bunch of generalities in this case; we want to get the facts, if you have got any facts, put them in.

Q. I will ask you, Mr. Stratford, if you know whether or

not the available number of hogs was less in 1920 than it had been for three or four years prior thereto, in this county?

A. Yes, it was.

Mr. Taylor: One minute, the answer to that is yes or no, if the answer goes further I move to strike it out; I move to strike out the words, "it was."

Q. I will ask you if you know?

A. Yes.

Q. Well, I will ask you to state, then, if the number was more or less in 1920 than it had been prior thereto?

Mr. Taylor: Now, one minute, before the witness answers that question; I would like to know what knowledge he really has on this subject; I would like to ask first how many hogs there were in this county in 1920?

A. About 45,000.

1355 By Mr. Taylor: Q. How many were there—about—more or less?

A. Well, I dont recall the exact number .

Q. Now, where did this information come from?

A. From the United States census, which the enumerator visits every farm, you see, and takes a record of the number of all kinds of live stock.

Q. You looked in the United States census reports?

A. I have those issued by counties, yes sir, as they come out; the entire report has not been consolidated but I have in my office reports by counties, have them for practically every county in Georgia up to date.

Q. What information you have now is your recollection as to what is shown by the United States census reports, is that correct?

A. Yes, sir.

By Mr. Gibson: Q. Have you that record available, Mr. Stratford, at your office?

A. It is in my office, yes sir.

Mr. Gibson: We will get that and introduce it.

Mr. Taylor: Now, I object to the witness answering the question here, it is secondary evidence; the best evidence is available.

A. That is actual count.

Examiner Sadler: The objection will be sustained.

A. The census report is actual count.

1356 Q. I will ask you this question, Mr. Stratford, which you can answer yes or no. From your observation and travel through the county, would you be in position to give an

opinion as to the relative numbers through those years, that is, as to whether they would be more or less?

A. Well, in 1920—

Mr. Taylor: One minute.

Examiner Sadler: Just yes or no.

Q. I just want to know if you are prepared to answer from your observation?

A. Yes, I am, but I wanted to qualify that, rather, I wanted to explain about how I understood your question.

Q. You can do that without going into the number or the answer to the other question.

Mr. Taylor: I object to the explanation.

Q. He wants to give—

Examiner Sadler: Let the witness proceed.

Mr. Gibson: He can do that, and then the court can say whether it would be proper for him to answer from that opinion.

A. Yes, it is possible for me to answer from my observations.

Mr. Taylor: Mr. Examiner, the witness is asked here for an opinion of the relative number of hogs raised; he has the census reports; let them put them in the record, and then let the Commission draw its own conclusions from the actual facts?

A. That is the only obtainable source of information.

1357 Q. Are there any census reports, though, for the other years that I named?

A. No sir, the census report only comes out every ten years.

Mr. Gibson: We submit, Mr. Examiner, that that would be the only way to show it. There is no census taken except once every ten years.

Mr. Taylor: I also submit that somebody's opinion from riding through the country is wholly valueless as to the number of hogs that there may be roaming about the fields and roads and woods.

Mr. Gibson: That would depend upon his opportunity for observation and his connection with the type of work.

Mr. Taylor: Did he ever count them during any one of those years?

A. I cannot count them all, but here is the point. If I visit a dozen farmers and find that these dozen farmers are producing more hogs or less hogs than previously, it is an

index to what the other farmers are doing, when I inquire from them as to what the other farmers are doing.

By Mr. Taylor: Q. Did you make any record of what the farmers told you at that time, these various numerous times that you visited them during these several years that you have been asked about?

A. I dont keep a compilation of the information that I get from the farmers.

1358 Mr. Taylor: I submit, Mr. Examiner, that this sort of testimony is wholly valueless.

Examiner Sadler: The objection will be sustained.

Q. Now, Mr. Stratford, I will ask you to give the facts so far as they come within your knowledge, so far as you know yourself, as to the relative number of hogs in the years named?

A. There was less hogs in 1920 than there was—

Mr. Taylor: Mr. Examiner, I move to strike out this answer, it is not going into facts; it is generalities, totally devoid of any fundamental facts.

Mr. Gibson: So far as he knows, so far as he has come in contact with it, we submit it would be competent.

Examiner Sadler: The witness says he has not gone—has not kept any records of the amount of hogs, so I dont think he can given an intelligent answer; it would be only opinion evidence.

Mr. Gibson: A man can make observations, I submit, without having to take notes of what he sees all the time.

Examiner Sadler: Well, the Commission has not got any facts before it. We will just get a whole lot of opinion evidence; we want the facts; the motion will be sustained.

Mr. Gibson: In order to get in the record the testimony spoken of here, we should like to reserve the right to state into the record the facts that this witness will testify to, in answer to the questions to which objections have been sustained.

1359 Examiner Sadler: All right. That is, a short concise statement?

Mr. Gibson: Yes sir. We will give that to him some time when we have not other witnesses to be examined.

Mr. Taylor: No objection.

Mr. Gibson: You may take him.

Cross-Examination by Mr. Taylor.

Q. Mr. Stratford, when were the Moultrie stock yards organized?

A. Last summer, summer of 1920.

Q. Now, just what do you mean by organized in the summer of 1920?

A. I mean that the promotion campaign was conducted and the stock sold; that had to be done before the yards were built.

Q. When was that started, along in July, June, August or when?

A. I did not keep a record of when that was started, though I took part in it.

Q. Well, dont you know when it was?

A. Well, all I could do is to say I think it was about along in July, I think it was about July when it was started, but I dont recall the exact date.

Q. Now, when did they actually commence operations?

A. They commenced operations along in the fall months, along about September or October.

Q. Of 1920?

A. 1920. No hogs came in until about then, in any volume.

1360 Mr. Taylor: That is all.

Examiner Sadler: The witness will be excused.

(Witness excused)

W. H. BARBER was thereupon called as a witness and having been duly sworn, testified as follows:

Direct Examination by Mr. Gibson.

Q. Your name is W. H. Barber?

A. Yes, sir.

Q. Where do you live?

A. Live in Colquitt County.

Q. How long have you lived here?

A. I have lived in this county since '96.

Q. What is your present occupation?

A. Farming and banking.

Q. Did you have any connection with the Moultrie Packing Company when it was in operation?

A. I was a stockholder, yes sir.

Q. Did you hold any position or office with the company?

A. Vice-president.

Q. Under what auspices or whose influence was the Moultrie Packing Company promoted and organized?

Mr. Taylor: Mr. Examiner, I object to that as having already been gone into in this case several times; it is entirely cumulative.

1361 Examiner Sadler: I think it shows clearly on the record who promoted this, by Mr. Brooks' testimony yesterday, besides Mr. Vereen's testimony in Atlanta, I think that point is well covered.

Mr. Gibson: You remember Mr. Brooks was in Minnesota at the time it began and he was brought down here by representatives of the Chamber of Commerce, who went after him.

Mr. Taylor: Mr. Brooks, I think, testified to all of that yesterday, when you were not here.

Examiner Sadler: Also covered by Mr. Vereen in Atlanta; it has all been covered; it is in the record; it would just be cumulative evidence, testimony.

Mr. Gibson: Is there any limitation on the number we can call to a point?

Examiner Sadler: Oh, no.

Mr. Gibson: Just asking him this in passing, so as to acquaint the Commission with his knowledge of it.

Examiner Sadler: All right.

Q. Who were the stockholders in that company, Mr. Barber, by whom was it organized?

A. I dont know as I could say just now who they all were, because there was quite a number; they were citizens, though, of this community, and around about through the county.

Mr. Taylor: I think we have an exhibit here showing the stockholders in detail.

Q. I dont care for their names; I wanted to know
1362 what class of people they were, whether they were farmers and business men of this county?

A. They were.

Q. What motive inspired the organization of the Moultrie Packing Company?

Mr. Taylor: That is objected to.

Examiner Sadler: The objection will be noted.

Mr. Taylor: Immaterial, also as cumulative, having been completely covered by the testimony of both Mr. Vereen and Mr. Brooks.

Q. You may answer.

A. Ask the question again.

(Question read)

A. To create a market for live stock and promote live stock production in this community.

Q. Had there been a market here prior to that time?

A. There had been nothing except little local markets, did not amount to anything; no commercial market.

Q. Did any condition exist in the agricultural situation of this county at that time which rendered it desirable to have a market for live stock?

Mr. Taylor: That is objected to, Mr. Examiner, as immaterial to the issues and outside of the scope of this examination; also as cumulative, having been all gone into by both Mr. Brooks and Mr. Vereen.

1363 Examiner Sadler: The objection will be noted.

Q. You can answer, Mr. Barber.

A. The boll weevils were coming into our section, and we thought it necessary, in order to keep up our standard of prosperity, to resort to the production of something else other than cotton, which had been our chief money crop.

Q. Did the stockholders of that company organize it with the intention of permanently engaging in the packing industry?

Mr. Taylor: Mr. Examiner, I object to that, incompetent, immaterial and irrelevant, calling upon this witness to state the state of mind of a great many other people; and furthermore, it is wholly irrelevant and immaterial to the issues now before this body.

Examiner Sadler: The objection will be sustained.

Q. You say you were one of the stockholders of the company?

A. I was, yes sir.

Q. Did you attend its meetings, meetings of the stockholders?

A. Fairly regularly, yes.

Q. Was the question of the sale of this plant to Swift & Company discussed by the stockholders?

A. Yes.

Q. Can you state the idea and purpose of the stockholders in selling it to Swift?

Mr. Taylor: I object to that, Mr. Examiner, as wholly irrelevant and immaterial to the issues here; makes no
1364 difference whatever what the intention of the stockholders were in selling.

Examiner Sadler: The objection will be sustained.

Q. I will ask you why was it desirable to or necessary to sell the Moultrie Packing Company?

Mr. Taylor: I object to that, Mr. Examiner, no foundation laid for the question, assuming facts not shown, furthermore, irrelevant and immaterial.

Examiner Sadler: The objection will be noted.

Q. You can answer that question, Mr. Bargor?

A. Ask the question again, please?

(Question read)

Mr. Taylor: Now, Mr. Examiner, I will ask you to note more carefully—to note carefully the question, and what it calls for, and the objection.

A. Our reason? First, I would say my personal reason—we all agreed, of course—was it was a new venture with us. It took a good deal of money to finance it; those of us that had the most money in it had as much business as we could look after outside of that, and there was no man among us that was looking for more business. Having promoted the enterprise to create a market for stock, we really felt that it would be carried further, our purpose and intention, if we could sell the plant to some regular packing company, who would be prepared to carry it further than we could. Therefore we considered it having accomplished our purpose
1365 and done more than we could have done in making this trade; we were very much pleased to sell it; it unloaded a burden; I had signed notes, a good many large notes, larger than I wanted to myself; I was glad to get clear of it.

Q. You say you had endorsed notes—

A. To finance it.

Q. You mean the directors, individual stockholders?

Q. Directors.

Mr. Taylor: Mr. Examiner, I move to strike out the answers to the last two questions as having nothing whatever to do with the question of suppression of competition.

Examiner Sadler: Motion to strike will be sustained.

Q. What was the situation of the directors or stockholders of the Moultrie Packing Company with reference to financing the operation of that company?

Mr. Taylor: I object to that on the same grounds that I moved to strike out the answer to the preceding questions: nothing whatever to do with the question of suppression of competition.

Mr. Gibson: If they were not able to operate, I call your attention to the fact that there might have soon been no competition to suppress.

Examiner Sadler: The objection will be sustained.

Q. In the acquisition of this plant by Swift & Company, was it the first company to approach the Moultrie Packing Company with reference to the purchase of this plant?

1366 Mr. Taylor: I object to that, Mr. Examiner, as wholly irrelevant and immaterial, makes no difference whatever which company or what company approached the stockholders first, whether any other company did or did not approach the stockholders.

Examiner Sadler: The objection will be sustained.

Q. Were the stockholders of the Moultrie Packing Company as willing to sell it to Swift as Swift was to purchase the same?

Mr. Taylor: Object to that, Mr. Examiner, as wholly immaterial to the issues here; furthermore, as calling for a conclusion of the witness, not only as to the state of mind of the stockholders, but to the state of mind of the officers of Swift & Company.

A. I could not answer that anyway.

Examiner Sadler: The objection will be sustained.

Mr. Gibson: He is familiar with the state of mind of the stockholders here.

Q. Did Swift & Company use any unfair means or any device to induce the stockholders of this plant to sell?

Mr. Taylor: Mr. Examiner, I object to that question as wholly immaterial to the issues in this case, calling upon the witness for a conclusion.

Examiner Sadler: The objection will be sustained.

Mr. Gibson: As I understood, it was charged by Section 5 of the Commerce Act; it might be relevant under that; Federal Trade Commission Act.

1367 Mr. Taylor: Even conceding that for the purpose of argument, it is calling for a pure conclusion of the witness, not based upon any facts whatever.

Mr. Gibson: Under the charge under that section, it might be relevant to show the circumstances of the sale of the plant to Swift.

Examiner Sadler: Sow the facts, that is what we want to get into the record; this is all opinion evidence.

Q. Have you any knowledge of the circumstances or the

reason or the occasion of the sale of the Moultrie Packing Company to Swift & Company?

A. I stated them before, Mr. Gibson, I think, just about what covers your question.

Mr. Gibson: Well, now, that was ruled out. I will ask you this then:

Q. Was that answer based upon your own information and knowledge?

A. Ask the question again.

Q. I mean your answer?

A. I am not sure just what was ruled out, I know there was a portion of the answer ruled out. What is your question now?

(Question read)

Mr. Taylor: Let's be sure that Mr. Barber has the right answer in his mind before the attempts to answer it.

Mr. Gibson: Read the answer that was ruled out.

1368 (Answer read)

Q. That answer was based upon your knowledge?

A. Yes.

Examiner Sadler: I am guided by the instructions I received, this morning, I will sustain the objection.

Mr. Horton: Are you referring now to the secret instructions?

Examiner Sadler: I am referring to the instructions I read into the record at the request of both counsel.

Q. Do you know whether or not before the operation of the Moultrie Packing Company, and during the time that it was operated as such; there was any competition in this county between Swift & Company and the Moultrie Packing Company in the purchase of live stock?

Mr. Taylor: Mr. Examiner, I also object to this question as calling for a conclusion of the witness; I object at this time because the answers to these questions which are properly answered by yes or no are very frequently followed by answers which the question do not really call for.

Mr. Gibson: I asked him if he knew one way or the other, was the question I asked.

Examiner Sadler: The objection will be noted.

A. Whether there was competition between Swift & Company and anyone else in this territory in the purchase of live stock?

Q. Yes sir, including the Moultrie Packing Company?

A. Yes sir, I know about that.

1369 Q. Was there any competition?

A. There was not.

Mr. Taylor: Now, one minute. Mr. Examiner, the answer was made before I had opportunity to object.

Mr. Gibson: Well, you may consider your objection before.

Mr. Taylor: I would like to cross examine the witness for a few minutes preparatory to making a motion to strike out the answer that is called for, if it may seem appropriate to do so.

Examiner Sadler: Any objections?

Mr. Gibson: No objections.

By Mr. Taylor: Q. Mr. Barber will you please state exactly what you mean by competition?

A. What—the way I understood his question—did you want me to state how I understood his question?

Q. No, I would like you to state exactly what you mean by competition?

A. Well, what I mean by competition was the matter of whether Swift & Company was purchasing live stock in this territory prior to the establishment of the Moultrie Packing Company, or up to the time that they purchased it, if you want to go that far.

Q. What do you mean by this territory?

A. I mean Colquitt County, several counties, you might say these southwest counties to the Florida line, I mean

1370 southwest Georgia counties, taking to the Florida line.

Q. How large and area do you have in mind?

A. Well, I would say to at least a county or two above here, then there is one tier of counties between here and the Florida line; I think I am familiar enough with those.

Q. Going clear to the Florida line?

A. Yes sir.

Q. Do you wish to be understood as testifying positively there that down to June, 1917, Swift & Company did not buy any hogs in that territory?

A. I have no knowledge of it; I was very much interested in the promotion of the live stock industry, it seems to me that I would have known; I have no knowledge of their purchasing any live stock in around about here, in any of the adjoining counties.

Q. But you dont wish to be understood on the record, I

assume, then, as testifying positively that Swift & Company did not buy any hogs in that territory?

A. Well, of course, something might happen and I not know of it, it could have been possible, but not probable.

By Mr. Gibson: Q. I will ask you this, before you engaged in the packing busines were you a farmer?

A. Yes, sir, a farmer.

Q. Did you raise live stock?

1371 A. Yes sir.

Q. On your farm?

A. Yes sir.

Q. Did you offer that for sale on the market?

A. Yes sir.

Q. Whenever you could find a market?

A. Yes.

Q. Did you ever know of a market offered by Swift & Company in the section referred to for live stock?

A. I did not.

By Mr. Taylor: Q. Well, where is your farm located?

A. Sir?

Q. Where is your farm located?

A. Well, all of my farming interests is carried on in this county, I have some north of here and some out northeast of here.

Q. How far away from Moultrie?

A. Five miles; of course, I had other Colquitt county land, like some that we had a little further west and northwest of here, at that time.

Q. Now, do you get down through those southern counties contiguous to the state of Florida very frequently?

A. Well, no, I dont go over there so very much, I have been interested in land, timber land.

1372 Q. It is quite possible that Swift & Company might have bought a good many hogs through there without your knowing it, isnt it?

A. Not probably, not probable at all, sir.

Q. I say, it is quite possible?

A. Well, I hardly see—I should say not.

Q. How frequently do you go through there?

A. I dont go through all of it maybe at all, but we have some knowledge of things like that, when you are interested, like we were, you know, in the stock business; it was making us take notice, and be on the look out for anything of that sort, because—

Q. Well, you mean that you talked with people that you might see on the streets, farmers, when they come in town, is that the way you got your knowledge?

A. Well, I got my knowledge in various ways, about like most of people get it; I have to get some knowledge, you know, to stay in business, or I would not have had any.

Q. Do you see all the farmers in the southern row of counties?

A. No sir, no sir, no sir, dont do that, you know people aint going to do that.

Q. No, I mean, do you see them, talk to them, the farmers there through that southern row of counties?

A. Well, I would not like to have you to be sarcastic at all, addressing me; I am a respectable citizen and a gentle-
1373 man, used to being treated as such.

Q. It is the furthest from my intention to be sarcastic; I am simply getting at the facts.

A. I would like for you to act with me that way, like you respect me; I want to be pleasant about it.

Q. Oh, I am sure you misunderstand me, Mr. Barber, I had no intention of being otherwise.

Examiner Sadler: Let's not have any more of this. Dont put any more of this on the record.

Mr. Horton: I insist on it going on the record; I think it should be on.

Examiner Sadler: Dont put any more of it on.

Mr. Taylor: What is the state of the record?

(Question read)

A. Well, I dont want to be unpleasant at all, I want to be understood on that, but I dont see how you could contemplate at all that anybody could see all the farmers, if that is what you mean, and talk with them; because it is a physical impossibility. We have no way of doing that; don't claim to do that; of course we see a great many of them in the immediate section there, all of them in the county, and some of them in the adjoining counties; see a good many in the territory that we are most interested in.

Mr. Taylor: Now, Mr. Examiner, I move to strike out the testimony of the witness to the effetct that Swift & Com-
1374 pany was not in competition with the Moultrie Packing Company in purchasing hogs prior to the acquisition of the stock.

Examiner Sadler: The motion to strike will be noted.

By Mr. Gibson: Q. Mr. Barber, I will ask you this, in

that connection, have you ever been engaged in the turpentine business, the business of distilling and selling turpentine and resin?

A. Was I ever engaged in it?

Q. Yes?

A. Yes sir.

Q. In selling that product, Mr. Barber, or any other products that is offered for sale, is it necessary for you to see every other man in this section engaged in the same business to know where there is a market for that product?

A. There is not.

Q. Who buys in this section?

A. No, it is not.

Q. What would you say about the competition in this county, and section, in the live stock business before and after the acquisition of the Moultrie Packing plant by Swift & Company?

Mr. Taylor: Now, Mr. Examiner, I object to this as calling for conclusions.

Q. I will ask you another question to qualify you before you rule on that. Have you any connection with the Moultrie Stock yards?

1375 A. Yes sir.

Q. What is that?

A. I am president of it.

Q. Have you from that connection, as well as your previous connection with the packing house and your business as a farmer an opportunity for judging the live stock business in this county and section, especially in so far as competition in the purchase of live stock is concerned?

A. Yes.

Mr. Gibson: Now, you can rule on the objection.

Examiner Sadler: The objection will be noted.

Mr. Taylor: Mr. Examiner, it seems to me that before the witness was permitted to give opinions, they at least ought to show on this record on what the opinions that they propose to give are based, so that the Commission can form its own opinion, based upon the facts, and not be compelled to accept the opinion of the witness without knowing on what he bases his opinion.

Mr. Gibson: We submit it would be difficult to qualify a man better to testify on a question of competition and live stock markets in this section than this witness is qualified.

Mr. Taylor: I know, but we have no facts on the record

here; you are asking the witness' opinion, without showing any facts upon which that opinion is based; it may be true that Mr. Barber is an important factor in the stock
1376 yards; it may be true that he has had very extensive knowledge and has very extensive knowledge, yet it is unfair to the Commission to have him come here and make a bald statement of his opinion; he should state what the facts are, what facts his opinions are based upon, so that the Commission will have an opportunity to either concur with him or otherwise; a mere opinion, they are unable to get any idea about it at all; they dont know what Mr. Barber had in his mind which caused him to form that opinion.

A. I would say that I had the facts; I think I could satisfy you of some facts about competition in buying.

Q. You propose to testify from your knowledge about this situation?

A. Yes sir, yes.

Q. I believe the objection was noted, wasn't it? You may go ahead and answer the question, now, Mr. Barber?

A. The question is already answered as far as you asked, isnt that true?

Q. No, there is a question before that that was not answered.

A. What was it?

Mr. Gibson: Read that.

Examiner Sadler: I understand that you are going to testify from facts then?

A. Yes sir.

Mr. Taylor: Testify from facts, or testify to facts?

Mr. Gibson: Both.

1377 (Question read)

Q. In other words, has the effect of the acquisition been to encourage competition or to diminish it, increase it or destroy it?

Mr. Taylor: I object to that, Mr. Examiner, absolutely; it is wholly incompetent to say what the effect was; we have not got on the record what the facts are.

Q. Well, give the facts then, Mr. Barber, as far as you know, illustrating that fact.

Mr. Taylor: The record shows that I have an objection to that

Examiner Sadler: He is testifying to facts?

Mr. Taylor: We have no facts before us from which he can testify, excepting he is president of the stock yards.

Examiner Sadler: The witness stated he is going to give the facts; he can do that.

Mr. Taylor: The question does not call for the facts; it calls for a conclusion.

Mr. Gibson: You can answer the question, Mr. Barber.

A. I dont think you have got the question prepared so that I can answer it intelligently, that I understood, the last; I should like to look over some of it again there; I want to answer intelligently; I want to answer in a way that it would be fact, not mere volume building, if I can.

Q. Well, we will ask you then, to state the facts as
1378 they come within your knowledge, to illustrate the effect which the acquisition of the Moultrie Packing Company by Swift & Company has had upon competition in the buying and selling of live stock in this county and section.

Mr. Taylor: Now, Mr. Examiner, I object to that question; if it is a question only as to facts that exist, or perhaps some of the facts which exist, that calls upon the witness to form a conclusion and state what—which of those facts support some conclusion that he may form which is not already expressed. I object to the form of the question and the answer that it necessarily calls for; if the witness is prepared to state what the facts were before the acquisition, and what the facts were after the acquisition, what the exact conditions were, that would be—

Mr. Gibson: That is exactly what we are asking him to do.

Mr. Taylor: It is a very peculiar way of expressing it.

A. I can state there what I think are the facts, and then if you don't want it you can rule it out.

Mr. Taylor: The question is, Mr. Barber, you have not been asked for that.

Mr. Gibson: I understand he has.

A. Then if it is something that ought to be ruled out, rule it out.

Examiner Sadler: Go ahead and state the facts.

A. Well, the facts are that the purchase of the plant by Swift & Company carried—they enlarged the plant,
1379 they made it about three times as large as it was; agreed to do it, and did do it, that was part of the consideration of the purchase to do that.

By Mr. Taylor: Q. One minute, Mr. Barber, was that—was there a written agreement upon that matter, or contract as to what Swift & Company would do along that line?

A. I could not say of my own knowledge whether that went into writing or not, because I did not handle the papers.

Q. Weren't you a party to the negotiations?

A. No sir; I was not there when—it was closed up, I believe, at Jacksonville, maybe.

Q. I am of the impression that there was a written agreement as to whatever was to have been done by Swift & Company.

Mr. Gibson: Well, until it appears that it was in writing, it would be proper for the testimony to remain in the record. As a matter of fact, it was not in writing.

By Mr. Gibson: Q. Continue your answer, Mr. Barber?

A. It has got more capacity for handling stock, naturally, it qualified them to use more stock, and put them in position to get more and give us a greater market for stock than we had before.

Mr. Taylor: Now, Mr. Examiner, I move to strike out the last words, "give us a greater market for stock than we
1380 had before," as a conclusion.

Examiner Sadler: The motion to strike will be sustained.

Q. What do you mean by a greater market, Mr. Barber?

A. I mean it prepared them to use more stock, and they naturally could handle—give them a greater capacity for handling stock than we had.

Q. What was the situation of the plant prior to its acquisition by Swift & Company with respect to its capacity to handle hogs there today during the killing season?

A. It was insufficient to handle after the first year of operation, through the fall and winter; of course, people were not educated to producing hogs to offer along in the year then, follow along in the dull season; of course, if we had had them distributed along during the year we could have handled them all very well.

Q. Was it necessary to place an embargo on the shipment of hogs to the Moultrie Packing Company?

A. We had to refuse to take them through December and January, during those months.

Q. Would you say that the effect of enlargement of the plant by Swift was to obviate the necessity for placing an embargo upon hogs, which the old plant had made?

Mr. Taylor: That is objected to, Mr. Examiner.

A. Swift & Company—

Examiner Sadler: Just a second.

1381 Mr. Taylor: That is objected to as having been answered, in the first place; he said it gave them a larger capacity and that answered the question as fully as any answer that he could make to the present question.

Examiner Sadler: The objection will be sustained.

Mr. Gibson: All we expect the witness to testify to is what he stated in the record, so we will let it go at that and get the benefit of it.

Q. What would you say about the number of buyers in this county before and after the acquisition of the plant by Swift & Company?

A. I don't know the exact number, but they put men out, traveled men over this portion of Georgia, and through a large portion of Florida; I really don't know how many men. We had practically no effort along that line.

Q. When you say "we" you mean the Moultrie Packing Company?

A. The Moultrie Packing Company.

Q. You did not travel men extensively for the purpose of buying live stock for the Moultrie Packing Company?

A. No.

By Mr. Taylor: Q. Did you need to?

A. We did not through November, December and January; afterwards we might have traveled a good many and not have gotten near as many as we could have used, because they were not producing them at that time, during those months, you know, for slaughter.

1382 By Mr. Gibson: Q. What was the connection, if any, between the enlargement of the Moultrie plant by Swift & Company and the establishment of the Moultrie Stock Yards, of which you were president?

Mr. Taylor: Well, now, I object to that, for the same reasons, calling for a conclusion.

Q. What is the Moultrie Stock yards?

A. What is it?

Q. Yes sir.

A. It is a place where commission men, men who deal in live stock, gather and bid on stock that is brought there and offered to them, in any way.

Q. When was the Moultrie Stock yards established?

A. Established last summer.

Q. From your knowledge of live stock in this county and section before and after the acquisition of the Moultrie plant

by Swift & Company, would you say that the establishment of the Moultrie Stock yard had tended to increase competition in the buying and selling of live stock?

A. I would say it has.

Q. Was there a competitive live stock yard here in Moultrie prior to the acquisition of the plant by Swift?

A. There was not.

Q. Do you know of any instance or way in which Swift & Company has attempted to lessen or destroy competi-
1383 tion in buying and selling of live stock in this county or section?

Mr. Taylor: I object to that, Mr. Examiner, as calling for a conclusion of the witness.

Mr. Gibson: I asked him if he knew of any instance.

Examiner Sadler: The objection will be noted.

Mr. Gibson: You can answer.

A. If I knew—read the question.

Mr. Gibson: You may read him the question.

(Question read.)

A. I do not, no sir.

Mr. Taylor: Now, I move to strike out the answer as being a conclusion of the witness, not attempted to be a statement of fact.

Examiner Sadler: The motion to strike will be noted.

Q. From your connection with the Moultrie Packing Company, from your general knowledge as a farmer, and seller of live stock in this county, would you say that Swift & Company had made any effort to lessen or destroy competition in the buying or selling of live stock that you know of?

Mr. Taylor: Just a minute, read me that question.

(Questioned read.)

Q. Would you know it?

A. I don't think—I would think I would have known it.

Mr. Taylor: Just one minute. I object to that question as calling upon the witness to exercise his powers of conclu-
sion before deciding whether or not in fact he may
1384 know of any way of lessening competition.

Examiner Sadler: The objection will be sustained.

Mr. Taylor: I move to strike out the answer, Mr. Examiner.

Examiner Sadler: The motion to strike will be sustained.

Q. Suppose, Mr. Barber, that they had made any general effort to lessen or destroy competition in this county in the purchase or sale of live stock, would you know that?

Mr. Taylor: I object to that for the same reason enumerated.

Mr. Gibson: I submit that a general effort would come within the knowledge of anybody in that business.

Examiner Sadler: The objection will be sustained.

Q. Mr. Barber, from your personal knowledge and from your observation in the county and section in which you have been, would you say that there were more hogs or less hogs in 1917,—I mean more or less hogs in 1920 than there had been in 1917, 1918, and 1919?

A. I could not answer that.

Q. Are you familiar, Mr. Barber, with the policy pursued by Swift & Company, or rather by its representatives in this county, towards the encouragement of the production of live stock?

A. I think so, I would say I am.

Q. Will you state what that is?

A. Yes.

Mr. Taylor: Mr. Examiner, that is quite outside of the scope of our present examination. I therefore object
1385 to it as immaterial and irrelevant.

Mr. Gibson: We think that would relate directly to competition in this county, if we can show that they have pursued a policy of encouraging the production of live stock, that would necessarily mean a large number of live stock that would have logically and naturally resulted from it; that would tend to increase competition here.

Mr. Taylor: Wouldn't it tend to do the reverse?

Mr. Gibson: I think not.

Examiner Sadler: The objection will be sustained.

Mr. Gibson: I believe I will turn the witness over to you for cross examination.

Mr. Taylor: I don't believe that I have a single question that I want to ask Mr. Barber. Just a minute—no, no cross examination.

Examiner Sadler: The witness will be excused.

(Witness excused.)

Examiner Sadler: You have no more witnesses here to put on tonight, have you?

Mr. Gibson: No, not this evening.

Examiner Sadler: Very well, then, we will take a recess until ten o'clock tomorrow morning.

(Whereupon, at 5:30 o'clock P. M., July 13, 1921, a recess was taken until 10:00 o'clock A. M. of the following day.)

1386 Docket 453.

Moultrie, Georgia, July 14, 1921.

Met pursuant to adjournment, 10:00 o'clock A. M.

Before:

Clarence T. Sadler, Examiner.

Present:

Parties as before.

C. W. PIDCOCK was thereupon called as a witness and having been first duly sworn, testified as follows:

Direct Examination by Mr. Hill.

Q. Mr. Pidcock, do you live in Moultrie?
A. I do.
Q. How long have you lived in Moultrie?
A. About twenty-five years.
Q. What is your business here?
A. I am in the railroad business.
Q. You are in the railroad business; how long have you been a railroad man?
A. All my life, thirty-five years.
Q. What railroad are you president of, if any?
A. Georgia Northern.
Q. How long have you—I believe you state you have lived in this community for twenty-five years?
A. Yes, sir.
Q. Have you for the last ten years been familiar with the competitive conditions here with referenc to buy-
1387 ing and selling of live stock?
A. Yes sir.
Q. I will get you to state whether or not there was prior to the time Swift bought out the old Moultrie Packing Company, whether there was any competition here then in the buying of live stock?
Mr. Taylor: Mr. Examiner—
A. Absolutely none.
Q. Absolutely none?
Mr. Taylor: Just a minute, that is objected to as calling for a conclusion of the witness, also as immaterial to all the issues of this case. I move to strike out the answer, as it

was made before I had been allowed to complete my objection.

Q. Mr. Pidcock, do you know the conditions?

Examiner Sadler: Just as second.

Q. Personally?

A. I do.

Q. Do you know of your own personal knowledge the conditions that existed so far as competition is concerned?

A. I do.

Q. What you say is not based upon hearsay?

A. No.

Q. Nor the opinion of others?

A. No, it is my own opinion.

Q. Based upon your own personal knowledge?

1388 A. Absolutely.

Q. All right. Now, I believe you said that of your own personal knowledge there was no competition here in the buying of live stock?

Mr. Taylor: One minute, I move to strike out this answer —I understand there has been no ruling yet—that there was no competition, and I object to it on the further ground that it was not responsive to the question.

Examiner Sadler: Read the question and answer?

(Question and answer read.)

Mr. Hill: Read on.

Mr. Taylor: The witness said of his own opinion on that.

Mr. Hill: No, he said of his own knowledge.

A. Of my own knowledge.

By Mr. Taylor: Q. Mr. Pidcock, what is competition, what do you mean by competition?

Mr. Hill: Let me get through with him before making your cross examination.

Mr. Taylor: I will ask the examiner for leave to cross examine at this time.

Mr. Hill: I submit that by every rule of law, every rule of ethics, he has no right to take this witness away from me at this time for cross examination, before I finish my direct examination.

1389 Examiner Sadler: Do you want to base your objection on your cross examination?

Mr. Taylor: Certainly.

Examiner Sadler: The permission will be allowed.

Mr. Hill: Well, if your Honor please, you can do that on cross examination, at the proper time, then if it develops

that his testimony is irrelevant, then he can make a motion to rule it out, but let me finish with my witness and then turn him over to him for cross examination, to cross examine as much as he pleases, that is orderly; that is the rule, that is right.

Mr. Taylor: Mr. Examiner, possibly I am laboring under a misapprehension, but I am of the impression that this hearing is in charge of the examiner, and not the associate counsel for Swift & Company. I understand there has been a ruling here by the examiner; I would like to proceed in accordance with that ruling, if I am permitted.

Mr. Hill: If your Honor please, I recognize the fact that you are in full control of this thing, but I also recognize the fact that any lawyer who is permitted by the Commission to come here and examine witnesses has some rights, that is, the right of being treated decently and legally, and I insist upon it.

Examiner Sadler: We won't have any more argument on it upon the record. Do you want to base your objection on the cross examination?

Mr. Taylor: Yes.

1390 Mr. Gibson: Mr. Pidcock—

Examiner Sadler: Just a second; I want to rule on this. I will allow Mr. Taylor to cross examine to base his objections on.

By Mr. Taylor: Q. Now, Mr. Pidcock, what do you mean by competition?

A. Competition is where there is more than one buyer; takes more than one buyer to create competition, as I understand competition.

Q. Do you wish your answer to stand as being that there was no buyers of hogs or live stock in the vicinity of Moultrie before Swift & Company purchased the stock of the Moultrie Packing Company?

A. Yes sir. There was none.

Q. Do you know that positively, of your own knowledge?

A. I do.

Q. Do you know what territory the Moultrie Packing Company bought this live stock in?

A. Yes sir.

Q. Where was it?

A. They bought live stock as far west as Alabama, around Dothan; pretty near to Montgomery; they bought in north and south Florida. They bought stock as high up as Macon,

over to Columbus, all this territory I have given you, the radius in which they purchased.

1391 Q. Through all of the intervening territory here, to the limits you have described?

A. Yes sir.

Q. How frequently do you visit that territory?

A. I don't have to visit it; I am a railroad man, I can tell by the billing where this stock comes from, where they originate; I don't have to visit this territory.

My Mr. Hill: Q. Were you also a stockholder?

A. I was a big one, and an endorser of the old Moultrie Packing Company paper.

By Mr. Taylor: Q. You say you did not visit these various towns?

A. I visit them from time to time, just like you would if you lived here.

Q. Well, those visits that you make enable you to know what stock is shipped out of those towns to the west or the south or the east or the north, away from Moultrie?

A. They were not shipping any, at least that I know of. Of course, I was not there every day, in any town, to know whether they shipped to other towns or not, but there was no other market except to come here.

Q. You mean in this immediate vicinity?

A. In this immediate vicinity.

Mr. Taylor: Now, Mr. Examiner, I renew my motion

1392 to strike out the answer as being based on hearsay.

Examiner Sadler: The motion to strike will be noted.

By Mr. Hill: Q. Mr. Pidcock, by reason of your being a stockholder in the old Moultrie Packing Company, do you know, from your connection with that plant, and from seeing and knowing about live stock conditions here, that there was no competition?

A. Yes sir.

Q. Now, do you know that because of your personal and intimate connection with the business?

A. I do.

Mr. Taylor: Mr. Examiner, I object to these questions as grossly leading.

Mr. Hill: I submit that they are, but if he wants to be that technical, I will put it another way then.

Mr. Taylor: That is all right; the witness is perfectly capable of testifying.

Mr. Hill: We don't want to be technical with our friend over there, your Honor.

Examiner Sadler: We won't have any argument on the record about that.

Mr. Hill: We don't desire to be technical in this hearing; our purpose is to come here in good faith to develop the facts, the truth of the situation is so far as this locality is concerned, in conformity with the telegram.

1393 Mr. Taylor: There will be no objection.

The Witness: Mr. Examiner, will you permit me to make a little statement on that thing, on the live stock business?

Mr. Hill: If it is relevant state it.

Examiner Sadler: Just a second; I am in charge of this hearing. If it is relevant to the issues I would like to have it.

The Witness: I think it is; you need not put it in the record until after you hear it. There was no competition; in fact, the hogs crowded in on that packing plant so fast that we could not kill them; we had between five and ten thousand hogs there at one time; just shoved them in on us, would not notify us even. They just shipped them in, anyhow, and we had everything in the yards crowded out, the hogs dying and escaping and everything else, at one time.

Q. Now, was that accumulation there Mr. Pidcock and that surplus of hogs, due to the fact that there was no other buyer except Swift?

A. No other buyer.

Mr. Taylor: I object to that as calling for a conclusion of the witness, Mr. Examiner.

Q. Have conditions—

Examiner Sadler: The objection will be noted.

Q. If conditions had been the same during those times as they are now, would those hogs have been taken up and put on the market and shipped to other places, or not?

1394 Mr. Taylor: I object to that as calling for a conclusion of the witness and furthermore, as based upon conditions other than the fact that Swift has acquired the Moultrie plant and is now operating it.

Q. Have any such—the witness did not answer at all.

A. I did not answer because I did not fully understand the question.

Q. Have any such conditions as you have just described ever prevailed here since Swift took charge of the plant?

A. Not that I know of.

Mr. Taylor: I object to that.

Examiner Sadler: The objection will be noted.

Q. Now, if the capacity of the old Moultrie Packing Company had been as large as Swift's capacity is, could you or not have consumed those hogs as they came in?

Mr. Taylor: Mr. Examiner, I object to that as calling for a conclusion of the witness, which is not based on all the facts which exist, only a few of them, and also as irrelevant and immaterial to the issues.

By Examiner Sadler: Q. Do you know the capacity of the old Moultrie Packing plant?

A. It was along about 500 a day.

Q. Do you know the capacity of Swift?

A. It is four times as big as it was; I expect about two thousand a day.

1395 By Mr. Taylor: Q. You don't know exactly, though, do you?

A. No, I know it is four times as big as it was; therefore, I should say they could kill two thousand a day.

By Mr. Hill: Q. Now, if you could have—not you, but the old Moultrie Packing Company, if they had been able to kill say fifteen hundred to two thousand hogs a day, would this condition that you have just described have prevailed, or would you have killed the hogs out and put them on the market?

Mr. Taylor: That is objected to.

Examiner Sadler: The objection will be noted.

A. We could have taken care of them.

Q. Were you able to take care of them?

A. We were not; the hog business had outgrown our capacity, you see.

Q. Was there anybody else in the way of a buyer here to help take care of the hogs that you could not handle?

A. Champion's market would kill five or six a day, and the other butcher I think would probably kill about as many, that as all.

Q. Well, you mean by that there was no commercial buyer?

A. No, there wasnt any other buyer.

Q. Mr. Pidcock, are you familiar with the conditions now that exist since Swift & Company took charge of the plant, with reference to competition in buying?

1396 A. Yes sir.

Q. Well, has there been competition since that time; is there competition now?

A. There is strong competition, there is the stock yards, of which I am part owner.

Q. Can any packer in the United States that prefers to do it or wants to do it come here and big on and get these hogs?

A. Yes sir, and they do it.

Q. And they do it?

A. Yes sir. We bring them in, unload them, sell them, and haul them out again, to Cuba, Jacksonville, all around; it is an open market. If Swift do not pay the price, he don't get them; they lose quite a good many that way, too.

Q. Was there any—did any such condition as that with reference to buying hogs exist during the days of the old Moultrie Packing Company?

A. No, there was nobody else to buy.

Q. What is the purpose of this stock yards you speak of?

A. Why, to make competition; to give the farmers a chance to sell his hogs and cattle at the best prices. The purpose of the stock yards is, of course, gain of the owner, and to create a market whereby they can get the best prices.

Q. Do you know what the attitude of Swift & Company was with reference to the establishment of that kind of a competitive marketing system here?

1397 A. They encouraged it, by leasing us the land to build it.

Mr. Taylor: One minute, the answer to that question is yes or no.

Q. Just say do you know?

A. Yes.

Q. All right now, what was it, was it encouraging or not?

A. It was.

Mr. Taylor: Now, Mr. Examiner—one minute, please, let me get my objection on the record, before you answer your questions. I object to that question as calling for a conclusion of the witness.

Mr. Hill: I will get him to give the facts.

Mr. Taylor: Furthermore, as irrelevant and immaterial to the issues.

Q. I will get you to give the facts upon which you made that statement. Why do you say they encouraged it, did they do anything to encourage it?

A. They did.

Mr. Taylor: Have we a ruling on this?

Examiner Sadler: The objection will be noted.

A. They leased us a piece of ground near the packing plant, encouraged it in that manner, that they would be glad to have the stock yards there, probably they would not have to send as may buyers out in the field, all over the country to purchase stock, they could go there, walk across to the
1398 stock yards, and bid like anybody else.

Q. Is that buying out there fair to anybody that wishes to bid?

A. Absolutely.

Mr. Taylor: Oh, I object to that, immaterial.

Examiner Sadler: The objection will be sustained.

Q. Has Swift & Company—do they exercise any influence over the stock yards proposition out there, whereby they can manipulate it at all in the buying of hogs?

A. No sir.

Mr. Taylor: I also object to that.

Examiner Sadler: The objection will be noted.

A. That market is open to everybody, to them and everybody else; they haven't got any more pull there than you have.

Q. Are they given any preference over anybody else?

A. None whatever.

Q. Mr. Pidcock, by reason of your residence here for twenty-five years, are you familiar with the agricultural conditions here during that time?

A. Yes sir.

Q. Are you especially familiar with live stock raising in this country all during those years?

A. Yes sir.

Q. Has Swift & Company done any act either to encourage or to suppress the raising of live stock?

Mr. Taylor: I object to that as wholly immaterial.
1399 A. They have encouraged it.

Q. Encouraged it.

Mr. Taylor: To the issues here.

Examiner Sadler: The objection will be sustained.

Q. They have encouraged it?

Mr. Taylor: Now, Mr. Examiner, I move to strike out the answer on the same grounds.

A. I don't see any use of examining me any further. They are just over here to lynch Swift & Company, let them go on and do it.

Q. Well, we will proceed with it and do the best we can.

Mr. Hill: Now, Mr. Examiner, we insist upon this right,

that the testimony of the witness by put in the record, with the right of counsel on the oposite side to have his objection noted, so that the Trade Commission may pass ultimately upon its relevancy. You understand, if your Honor please, there is a vast difference between relevant testimony and testimony that has probative value. If the testimony has any probative value, whether it be little or great, it ought to go in the record. The fact that it may be of small probative value would not render it irrelevant; if it tends to illustrate the issues, even to the slightest extent, it is relevant; its probative value is ultimately for the Trade Commission to pass on; they may say it has no probative value; although it is relevant. If they do, all right; if it tends in the slightest degree to illustrate the issues, we insist upon its go-
1400 ing in the record, so that they may see whether it has probative value or not.

Examiner Sadler: I am in charge of this hearing, I have a right to stop the witness from putting personal remarks into the record.

Mr. Hill: We don't object to that.

The Witness: I did not make those remarks to go into the record.

Q. Now, I will get you to answer the question, Mr. Pidcock, did they or not encourage the raising of live stock?

A. They encouraged it in every manner they could.

Examiner Sadler: Just a second, I believe counsel wants to make an objection.

Mr. Taylor: That question is objected to, for the same reasons as specified as to the other question.

Examiner Sadler: The objection will be sustained.

Mr. Hill: Now, if your Honor please, we insist that the evidence is relevant on the question of whether or not they suppressed competition; we insist that the fact that a packer will go out into the country among the farmers and do acts which encourage the farmers to raise hogs and cows and increase production, is illustrative of the question of whether or not their motive in locating here was to suppress competition or not.

Mr. Taylor: Mr. Examiner, I would like to say for the information of counsel, who has just come into this proceeding, and I presume has not even read the complaint, that
1401 there is no allegation of suppression of competition in the buying of hogs, and that no proof has been taken in this case upon the matter of buying hogs. The suppres-

sion of competition to which the proof relates is in the matter of selling pork only.

Mr. Hill: Well, if your Honor please, we submit that the selling of any commodity is based upon the supply and the demand; if the supply is increased, if your Honor please, by the production of live stock, then the supply of pork is increased, and thereby more pork is placed upon the market, and that certainly does illustrate ultimately the question of whether or not they sought to lessen competition, even in the selling of the products. I submit that no packer that was not in good faith, and wanted to treat the public fairly and squarely, would go out on the farms of this country and increase the raising of live stock, if his purpose was to suppress competition in the selling of the finished product. The fact that they increased the demand here—I mean increased the supply—

Mr. Taylor: Mr. Examiner, I would like to call your attention to the fact that if it is the purpose of this testimony to show the increased output of Swift & Company, then it is wholly incompetent. The proper proof of that would be the records of the Moultrie branch here, as to what products they actually put out. There is no use going far afield in this case to show that they actually did increase their supply.

Mr. Hill: Our position is, if your Honor please, that
1402 Swift & Company, nor no other packer, could possibly put it out unless they had it to put out. Our position is that we wish to show by this witness and by numerous other witness, that their encouragement of live stock was not for the purpose of buying for themselves, but for anybody in the world to buy them. We expect to show that they did encourage it, and that the stock yards and the market here is open to every packer in the United States to come here and buy them, and that they were not encouraging the farmer to raise the hogs solely for the purpose of Swift's buying them.

Mr. Horton: I will state furthermore, your Honor, that I expect to call at the proper time an economist who will show the relation of production to the supply that is offered in the usual channels of trade. I cannot do that unless this evidence is allowed to come in; we will connect it up and show that the number and the production of hogs has a direct bearing upon the number of pounds of meat that is offered in the various markets. I furthermore expect to put in the record

here, if I am allowed to do so, the number of head killed by this plant during the years—the last half of 1917, the last half of 1917 and the years 1918, 1919, and 1920, and 1921 to date. I also expect to show the number of cars of products shipped from this plant as finished product.

Mr. Taylor: If that is to be done, what is the use of calling all of these witness to guess on the subject.

1402½ Mr. Hill: He is not guessing.

The Witness: I am not guessing, I am no guesser.

Mr. Hill: He is going to show by his records what Swift got of it; you can show what any other packer got if you want to do it.

Q. Mr. Pidcock, was the encouragement of the raising of hogs and cows in southwest Georgia, Northern Florida, south Alabama, on the part of Swift, been for the purpose of enabling them to buy or any other packer to buy?

A. Everybody to buy.

Mr. Taylor: Mr. Examiner, I object to that question, as assuming a fact which has been obected to, and the objection sustained. I object to it also on the ground that it calls for a conclusion of the witness, based upon an assumed fact which has been ruled out here.

Examiner Sadler: The objection will be sustained.

Q. Could anybody buy this live stock, then, this live stock, hogs and cows?

A. Yes, you or anybody else could.

Q. Which Swift & Company had encouraged the farmers to produce?

A. Yes sir.

Mr. Taylor: I object to that last question, which Swift & Company had encouraged the farmers to produce?

A. The White Provision Company goes in and buys them, and everybody else does.

1403 Examiner Sadler: The objection will be sustained.

A. There has been an open market on hogs and cattle just as on cotton or anything else.

Q. Now, of your own personal knowledge, do you know of any effort on the part of Swift & Company to increase the production of live stock?

A. I do.

Mr. Taylor: I object to that.

Examiner Sadler: The objection will be sustained.

Q. All right, tell it.

A. I have been in the country with them—

Examiner Sadler: Just a second; the objection will be sustained.

Mr. Hill: Now, we insist, if your Honor please, that the fact that the officers of Swift & Company, that is, the alter egos of Swift, Swift's representatives, the fact that they went out into the country on various occasions on missions to encourage the raising of live stock. and the fact that this witness went with them, shows that he knows it of his own personal knowledge.

Examiner Sadler: I will have to instruct the attorney for the respondent to address his remarks to me and the record, not to the witness.

Mr. Hill: I am addressing these to you.

Examiner Sadler: And when I tell him to stop, to stop.

1404 Mr. Hill: Now, I insist that his evidence go into the record, to the effect that he ment with officers and agents of Swift, around on missions of encouragement among the farmers, to raise live stock, and that Swift also, to his own personal knowledge, to the knowledge of this witness, also distributed among the farmers all over this section pure-bred—

A. Hereford bullds.

Q. Pure-bred Hereford bulls; and pure-bred boar hogs, is that right?

A. Yes.

Q. Chickens?

A. Yes, chickens.

Examiner Sadler: Ask him the question.

Mr. Hill: Yes; I understood that you ruled it out; I just wanted to get it in the record; just wanted to get it in the record I expected the witness to testify to those facts.

Q. Now, Mr. Pidcock, do you know of your own personal knowledge that Swift & Company encouraged the raising of live stock here?

A. I do.

Mr. Taylor: That is objected to.

Mr. Hill: All right.

Mr. Taylor: As outside of the issues here.

Examiner Sadler: The objection will be sustained.

Q. Did you go on missions of encouragement?

A. I did.

1405 Q. With officers and agents—

A. Yes sir.

Q. Representatives of Swift, amongst the farmers?
A. Yes sir.
Examiner Sadler: Just a second.
Mr. Taylor: May I have an objection to all of these questions? They are all along the same line that objections have been sustained to.
Examiner Sadler: The objection will be sustained, and the motion to strike will be received.
Mr. Hill: You will permit us to accept to your ruling, will you?
Examiner Sadler: Oh, yes.
Q. Now, Mr. Pidcock, do you know of your own personal knowledge that Swift & Company distributed among the farmers of this section pure-bred bulls and pure-bred boars?
A. I do.
Mr. Taylor: That is objected to.
Examiner Sadler: Objection will be sustained.
Q. All right; do you know that they put out money among the pig clubs, in the Chamber of Commerce and various other institutions to encourage the boys and girls to raise hogs and cows?
A. Yes sir.
Mr. Taylor: That is also objected to.
Examiner Sadler: The objection will be sustained.
1406 A. They have done all of that.
Mr. Hill: Now, Mr. Examiner, I wish to state in my place as an attorney, what I expect this witness to swear to—one more question:
Q. Do you know of them giving scholarships to boys and girls in agricultural colleges?
A. They have done that.
Examiner Sadler: Just a second; just wait until he gets his objection in before—
Mr. Hill: I have not finished my question:
Q. Especially in the live stock departments of those institutions?
Mr. Taylor: That is objected to, Mr. Examiner, as outside of the issues here.
Examiner Sadler: The objection will be sustained.
Mr. Hill: Now, then, I have laid the foundation for his testimony, and showed that the witness would testify it, but in order to get it in the record, I state in my place that this witness, that I expect this witness to swear to these facts: That since Swift & Company has located in Moultrie, Georgia,

that the witness has gone on missions of encouragement to the farmers through south Georgia, encouraging them to raise hogs and cows, that along with him on those missions went agents and representatives and the alter egoe of Swift & Company; that of this witness' personal knowledge he knows that Swift has bought a large number of thor-
1407 oughbred Hereford bulls and distributed them among the farmers in this section, also distributed hogs among them, all with the view and the aim of encouraging the raising of live stock, and particular a better class of live stock. I further expect to show by the witness that one of the reasons for that was before they came here the farmers here raised what was known as the razor-back hog and the piney woods cow, and that they were unprofitable to the farmer, and that kind of live stock that Swift encouraged the raising of could be raised down here with profit to the farmer; furthermore, I expect him to swear that Swift & Company has donated several thousand dollars here, to this witness' own personal knowledge, to the Chamber of Commerce and to boys and girls around in the country, to enable them to go to agricultural colleges, and especially the live stock departments of these colleges, in an effort to educate the public on the matter of raising live stock. Furthermore, I expect to prove by this witness that he knows and has seen Swift & Company put on extensive exhibits at fairs around in the various sections of country, particularly in Colquitt county, of purebred live stock, to encourage the farmers to raise them, putting them on for the purpose of enabling the farmer to see them, examine them, and understand the difference between a good cow and a poor cow, and a good breed of hogs and a sorry breed of hogs. We insist that all of that evidence is relevant to show that Swift & Company were interested in encouraging the production of raw material, and that
1408 in increasing the raw material the finished product was necessarily increased, and that competition was not thereby suppressed.

Mr. Taylor: Mr. Examiner, I submit that all of these things which counsel stated he expected to elicit from this witness are immaterial to the issues here.

Examiner Sadler: Any further examination.

Mr. Hill: One minute:

Q. I will get you to state with reference to the stock yards here, whether or not Mr. H. McDowell, the new manager of Swift & Company here, whether or not he went to you

on several occasions and advised with you, and encouraged you and others here to put up this stock yards?

A. Yes sir, he went to me on a number of occasions.

Q. Did he or not state to you then that his reason for it was that he wanted—

Mr. Taylor: I object to these leading questions.

A. Yes.

Mr. Taylor: This witness is perfectly capable of testifying, I think.

A. Swift & Company did not put any money in it, but they encouraged us to do it.

Q. What reason did they give you for wanting a stock yards?

A. They wanted competition here; they wanted to buy stock here; said they could pay more for the stock if it was brought to the stock yards than they could by sending
1409 buyers out. Said the price of that man would have to be added, being a high priced man, and his expenses and things like that would have to be added on.

Q. What did he state with reference to competition?

Mr. Taylor: I object to counsel putting the words in the mouth of the witness; he is perfectly capable of testifying.

A. He said that would create more competition; that is what Swift & Company wanted; they wanted to come out in the open.

Mr. Taylor: Now, Mr. Examiner, I move to strike out the words as to what Swift & Company wanted, as a conclusion of the witness.

Examiner Sadler: The motion to strike will be noted.

Q. What did he state he wanted, did he state he wanted the things you have just mentioned?

A. Yes sir.

Mr. Taylor: I move to strike out this last answer as having been elicited by a grossly leading question.

Q. Mr. Pidcock, in order to meet that objection, in order to get it in the record without the question, I will get you to state in your own way what he did state to you about the stock yards.

A. Mr. McDowell, stated to me that if he had a stock yards that it would—people would ship hogs here to it that did not ship them here now, because they knew they would have the advantage of various buyers, who would buy the stock, would buy at the stock yards, instead of just hav-
1410 ing one buyer, and since that, instead of having just the one buyer, there has been a lot of buyers.

Q. What you know about it, then, is what they told you?
A. I have seen it done.
Q. I know, but what you know about Swift's desires is what Swift said they desired?
A. That is what Swift said they desired.
Mr. Hill: The witness is with you, Mr. Taylor.
Mr. Taylor: Are you through, Mr. Hill?
Mr. Hill: Yes. One more question:
Q. Mr. Pidcock, from the standpoint of competition, from the standpoint of competition in the sale of finished meat products, what change, if any, would result in that respect by changing the management of this plant?
Mr. Taylor: I object to that as calling for a conclusion of the witness.
A. I don't quite get that.
Examiner Sadler: Just a second.
Mr. Taylor: I object to it as calling for a conclusion of the witness, which must be based upon many facts not shown in the question.
Mr. Hill: I am going to prove those facts.
Mr. Taylor: Many facts not brought out in the evidence, can be only mere speculation, of no value.
1411 By Examiner Sadler: Q. Are you familiar with Swift's policies?
A. In a general way.
Q. Are you an officer of the company?
A. No, I don't own a share of the stock.
Examiner Sadler: The objection will be sustained.
Mr. Hill: I expect this witness to testify, and state in my place that the witness will testify to this, that from his knowledge of Swift's fair and open and just methods of buying and competing with all other packers in the United States, and with his methods in buying live stock, that a change in the management, a change in the policies of that company could not better conditions and could not better or increase competition nor result in the slightest benefit to the public.
A. Am I permitted to answer that in my own way?
Examiner Sadler: No Sir, the objection has been sustained.
Q. Well, now, I will ask you this, Mr. Pidcock, you stated, I believe, that you were a stockholder in the old plant?
A. Yes sir.

Q. Were the stockholders of the old plant induced by any unfair methods of Swift to sell out?

A. Absolutely none; they came—

Mr. Taylor: That is objected to as calling for a conclusion of the witness, going over ground that has been gone over repeatedly ever since this case has been started.

Q. Mr. Pidcock, what effect would it have upon com-
1412 petition in this community in the sale of hogs, and in the sale of the finished products, to impair or to put out of business Swift & Company's operations here?

A. It would kill it.

Mr. Taylor: That is objected to.

A. There would be no market.

Mr. Taylor: This question is assuming facts which are entirely indefensible, calls for a conclusion of the witness, and the wildest kind of speculation.

Examiner Sadler: The objection will be sustained.

Q. Is there any other—is there any other packer in Moultrie and this vicinity except Swift?

Mr. Taylor: I object to that.

A. Not one.

Mr. Taylor: It is wholly immaterial.

Examiner Sadler: The objection will be noted.

Mr. Hill: I expect the witness to testify, if your Honor please, that this community, this section of Georgia, is vitally interested in any order that the Trade Commission might propose; which would have the result of impairing the operations of Swift & Company or to change their methods of doing business, or to change their management, for the reason that there is no other packer here except Swift, and that Swift's methods are all fair; that there is more competition in the selling of finish products on the part of Swift
1413 than there could possibly be if he went out of business here, or if his management was changed or the operations of his business impaired.

Mr. Taylor: Mr. Examiner, if the counsel desires the witness to testify that it would be a misfortune to Moultrie if the Moultrie plant were closed up, ceased to be operated, I have no object to that, but for him to testify that that would be the effect if somebody else were substituted for Swift & Company is too wildly speculative.

The Witness: No, it is not.

Mr. Taylor: To be permissible at all here.

Q. If somebody of less financial ability, Mr. Pidcock, than

Swift were substituted here for Swift, would conditions with reference to competition be better or worse?

Mr. Taylor: Now, I object to that.

A. Aint going to be any such animal.

Mr. Taylor: It does not appear that this witness knows what the financial responsibility of Swift is, or that he has any definite information.

Examiner Sadler: The objection will be sustained.

Q. You sold your stock in the old plant to Swift & Company?

A. No, I give it away. I will tell the facts about that, I had my name on about half a million dollars' worth of paper, and I did not intend to continue it; I give my stock away so that I would not have to go on any more paper.

Q. Were you willing willing to sell?

1414 A. I was. A few months later they sold it for one and a half.

Q. When Swift & Company bought the old plant, was the rest of them willing to sell as you were?

A. Absolutely. We would have give it away.

Mr. Taylor: I object to that.

Examiner Sadler: The objection will be sustained.

Mr. Hill: I expect the witness to swear that when Swift came here, Swift was induced—

A. We induced them.

Examiner Sadler: I am going to instruct the associate counsel for Swift & Company to have his witness simply answer the questions.

Mr. Hill: All right. I expect this witness to swear in answer to the questions propounded that when Swift bought the old Moultrie Packing Company, all the stockholders in the old plant were willing to sell, they were not coerced, they were not unduly influenced by Swift & Company to sell, but that it was a situation such as is contemplated by a fair trade, that is, a willing seller and a willing purchaser.

Mr. Taylor: All of which is entirely irrelevant to the issues.

Mr. Hill: We insist that we want this to go in the record for whatever it is worth; if it would be worth anything, we want the Trade Commission to know our views of it; that Swift & Company, in our judgment having been charged with lessening competition in the sale of its meat products,

1415 the fact that they used no unjust means or unfair means in acquiring this plant, the fact that the old stock com-

pany, the old corporation were willing to sell, and anxious to sell, is illustrative of the question of Swift & Company's intention in coming here.

Examiner Sadler: Is there any other direct examination of the witness?

Mr. Hill: I think that is all.

Cross-Examination by Mr. Taylor.

Q. Now, Mr. Pidcock, I believe you say you have lived twenty-five years in Moultrie?

A. Yes sir.

Q. Therefore know all about the stock conditions in the territory from which the Old Moultrie Company bought its stock?

A. Yes sir.

Q. Going back only so far as the Moultrie company organized, just when did it start?

A. The old Moultrie Packing Company?

Q. Yes, just when did it start business?

A. We organized in 1913 or '14, along there.

Q. Do you recall just when it started business?

A. Yes sir, it was in the fall of 1914, when the plant was completed and we commenced operations.

Q. And at that time what was the hog situation in the country?

A. Well, we figured—let me tell that in my own way; 1416 we figured that we could get ten thousand hogs the first year, we could make expenses; we got that many and a few more.

Q. Found plenty of hogs all about here, didnt you?

A. No, the hogs then, you know, was scattering, wasnt near as much hogs as there has since been; some people had raised hogs that year in anticipation of the plant.

Q. And hogs had been raised more or less for quite a number of years before that, hadnt they?

A. Just for home consumption.

Q. Just for home consumption? By home consumption you mean to include the small towns around in this general territory of about a hundred miles circle?

A. I dont know whether you know much about the south or not, but the people raising the hogs would kill them and try to save them; sometimes they would lose them by warm weather, sometimes they would get by with it.

Q. They would smoke a large part of the meat, and eat what they could unsmoked, fresh and cured?

A. Yes sir.

Q. The butcher shops in the towns would also sell out the meat from the hogs?

A. Yes sir.

Q. So that there was quite a little consumption here locally, I mean just in this territory, by the people who live here?

A. Well, there was; they would raise more than
1417 enough for themselves, because they counted on losing a part of the meat, which they generally did.

Q. And they raised enough to feed the people in town?

A. Oh, yes.

Q. That is, there was very little pork products imported into this general territory?

A. Well, salt pork was, oh, yes, salt pork always has been, but—cured meat, to; now, fresh meat was not imported into the territory.

Q. You mean dry salt meat?

A. Dry salt meat, hams, and so forth.

Q. And then the fresh pork, fresh loins, fresh hams, all that sort of thing, trimmings, sausage, that sort of thing, was raised here for the local consumption of the people, both in the country and in the towns in that district?

A. Was then and is yet.

Q. Well, today, I assume—I dont know whether it is correct or not—that a good deal of this pork is slaughtered by the Moultrie Packing Company, which in those days was slaughtered by the local butchers?

A. Well, they sometimes kill their own, sometimes they buy the other fellow's; I dont know just how they do that.

Q. But the butchers still kill more or less, dont they?

A. I guess they do.

Q. And those butchers buy their hogs in the country
1418 and surrounding towns?

A. Well, they buy more of the packing plant than they do elsewhere, because people like myself demand inspected meat.

Q. I am talking now about the old days when the Moultrie plant was first started, then these butchers bought their hogs around in the country surrounding the towns in which they had their shops?

A. No, they bought from the Moultrie Packing Company; sometimes killed a few cows.

Q. Now, I am talking now about the days when you first started, back in 1913?

A. The butchers did just like they are doing today, they bought from the Moultrie Packing Company; they buy from Swift & Company today; you will find that out if you go and ask them fellows over there; we want inspected meat, you know.

Q. Before the Moultrie Packing Company was started here they butchered most of their own meat, didn't they?

A. That is the only way they could get it.

Q. And then they began gradually to buy from the Moultrie Packing Company, but there was still some buying, up to the time that Swift & Company bought the stock of the Moultrie Packing Company?

A. Just about like there is now, just about the same on the farm as there is now.

Q. Do you mean to say that as large a percentage
1419 of the fresh meat was furnished to the butchers in the towns within a hundred miles circle of Moultrie in 1914 as there is today?

A. I dont know; you are asking me something that I could not swear to; I know that we have been running these peddler cars out of here to the different towns until recently.

Q. Who do you mean by "we"?

A. I mean the railroad, I mean hauling them out.

Q. For Swift & Company, you mean?

A. Yes sir.

Q. The Moultrie Packing Company never ran peddler cars, did they?

A. Oh, yes, they had their own cars; we would send them cars, to Atlanta and all around; we have to have a market for our meat; we could not eat it all ourselves.

Q. Now, in addition to these butchers who bought meat in this territory prior to 1916 and '17, there was no reason why buyers from the other places could not come in and buy these hogs, was there?

A. Was not anybody to come in and buy them, was nobody else had a packing plant.

Q. Well, I mean from outside?

A. But they did not come in.

Q. How about Atlanta, no reason why they should not have come in, was there?

A. But they did not.

Q. Are you sure?
1420 A. I think so.
Q. Are you sure?
A. Never hauled a car of hogs out of here.
Q. Out of Moultrie, but you have a circle here a hundred miles each way?
A. I cannot speak for the other towns, I am not speaking —I am speaking for the towns on my own railroad.
Q. You are speaking simply for Moltrie alone?
A. No, between Boston and Albany, Pelham; we never hauled any hogs out of here; that is 92 miles of railroad.
By Mr. Hill: Q. You mean towns along that road?
A. Intervening, yes.
By Mr. Taylor: Q. You dont know of any buyer for any other packing house, do you, that Swift & Company have actually brought into this territory to buy hogs?
A. I dont know whether they brought them in; I know they do come here and do buy; ever since we have had this stock yard.
Q. Yes; convenient place now to come to buy, gather stock?
A. It is a market.
Q. The hogs are gathered in from the surrounding territory and it is a convenient place for buyers from all communities to come here and buy?
A. They ship them here from all around, within a
1421 radius of a hundred miles each way and more; ship them here, and they are sold in the open market; Cuba buys quite a good many around here.
Mr. Taylor: That is all.
Mr. Hill: All right, Mr. Pidcock, we will let you go.
Examiner Sadler: The witness will be excused.
(Witness excused.)

C. B. CALDWELL was thereupon called as a witness and having been first duly sworn, testified as follows:

Cross-Examination.

Examiner Sadler: Do you want a subpoena for this gentleman?
Mr. Hill: We dont want a subpoena for him; he is here, just use him without a subpoena.
By Mr. Hill: Q. Mr. Caldwell, what is your business here?

A. I am secretary of the Chamber of Commerce.

Q. What connection have you with the Moultrie Stock Yards?

A. I was secretary of the stock yards company during the period of its formation; after that I asked to be excused.

Q. Mr. Caldwell, I will get you to state to the court what, if anything, did Swift & Company do to bring about or to put in existence the stock yards?

Mr. Taylor: I wish to object to that as irrelevant to the issues, Mr. Examiner.

Examiner Sadler: The objection will be noted.

1422 Q. Just state now in your own way?

A. As secretary of the Chamber of Commerce, I received knowledge that our board of directors were ready—that was back in May of this year—or last year—to support the building of a local stock yards here. I understood from my directors, who were leading business men here in the city, that Swift & Company were heartily in favor of the move, for the reason that under a public stock yards,—we thought a stock yards would draw live stock from a much larger radius of territory, and that in view of that fact, Swift & Company would therefore have a large amount of live stock to draw from.

Mr. Taylor: Mr. Examiner, I am loath to interrupt the witness, but it seems to me there is so much hearsay and conclusions in this answer that I ought at this time to do so, and move that the latter part of it be stricken out.

Mr. Hill: We dont insist on any hearsay. After we get through finding out what he knows, if it is based on hearsay, we will ask that it be ruled out ourselves.

Q. Now, Mr. Caldwell, I will get you to confine your testimony to what you know through talking with Swift's representatives, about what they did, whether or not they wanted —Swift & Company wanted the stock yards or not?

A. I have just stated they were entirely in favor of the establishment of the stock yards.

Q. How do you know that?

1423 A. Mr. McDowell is a member of the board of directors of the Moultrie Chamber of Commerce. All of my directors, including Mr. McDowell, attended several meetings that were called in the organization of that company, and the sale of the stock, and the final setting up of the organization of the stock yards.

Q. Was Mr. McDowell active in helping to promote the organization of the stock yards?

A. He was active in it, with every other director, attended all their meetings that we held in connection with it.

Q. Did you ever hear Mr. McDowell get up in meeting and make one of his usual eloquent speeches in support of the proposition?

A. Mr. McDowell was called on at various times in the course of these meetings to give his views of the matter, and heartily endorsed it straight through.

Q. Then what you know about Swift's efforts to bring about the organization of a stock yards was due to what you heard Swift say about it, through representatives?

A. Yes sir.

Q. Now, Mr. Caldwell, I will get you to state to the court what is the stock yards, what is its purpose?

A. The stock yards, as I conceive it, is an institution for the purpose of giving the farmer a competitive bid on all of his live stock; it was organized primarily here by the Chamber of Commerce as an institution for that purpose.

Q. Now, do the farmers and people generally all
1424 over south Georgia, Northern Florida, southern Alabama, have a competitive market here for their live stock?

Examiner Sadler: I wish you would limit yourself to Moultrie, if you would, please.

Mr. Hill: Well, I believe the telegram said this locality. Well, I dont know, I wanted to be perfectly fair with your Honor about it, let's see, the telegram, I dont know whether they meant this particular district here; I rather think they included the locality in which Swift does business.

Mr. Taylor: Swift does business all over the United States.

Mr. Hill: I mean this particular locality; we will confine—

Mr. Taylor: In the first place, buying is no part of the issues in this case.

Mr. Hill: We insist it is, you may insist that it is not. Of course, the Trade Commission may decide it is not, but I anticipate they will decide it is a very vital question. Competition is so closely connected with the production of the output of finished product, that it necessarily is relevant.

A. We have a competitive market here at Moultrie, and

that competitive market draws live stock from southeastern Alabama, west Florida, and south Georgia.

Q. I see. Well, now, Mr. Caldwell, is the buying here in Moultrie of live stock competitive in its full sense?

Mr. Taylor: I object to that as calling for a conclusion of the witness. Let him state the facts.

1425 Q. Do you know about it, do you know how they buy them out there, and sell them?

A. Yes sir.

Q. Now, state, of your own personal knowledge, what you know about that?

A. I know that when the yards open up there in the morning, that the several commission firms and Swift & Company's representatives go on the yards, and that the live stock is sold on a competitive basis.

Q. All right, do you know of your own personal knowledge that other bidders besides Swift are always on hand?

A. Yes sir.

Q. Can Swift & Company out there under the rules, under the management of the stock yards, buy stock any cheaper than anybody else?

A. No sir.

Q. Is the buying out there open and above board, and fair and just to everybody?

A. In so far as my knowledge goes it is; that is guaranteed by the integrity of the stock yards, headed by one of our leading citizens here Mr. Barber.

Q. Do you know, Mr. Caldwell, what change if any has taken place in the production of live stock through this section since Swift took charge of the plant?

A. I am familiar with the general influences that
1426 the acquisition of the plant by Swift & Company brought about, which in a word was the enlargement of the industry.

Mr. Taylor: Mr. Examiner, I move to strike out this answer as not responsive.

Mr. Hill: Well, he is going to get down and respond now.

Examiner Sadler: Motion to strike will be noted.

Q. Go ahead, Mr. Caldwell, and answer whether or not you do know whethere there has been any change in the marketing of the live stock in this section since Swift took charge of the plant?

A. Well, practically speaking, to fully and intelligently answer that question, would necessitate the fact that the

Moultrie Packing Company originally promoted hogs; that following the building of the plant the conditions were such that the farmer was encouraged to grow hogs, because of the low price of other farm crops, other farm products. The hog industry had naturally increased year after year, and finally we came to the period of this abnormal war price on cotton, when cotton went as high as forty cents; peanuts went from two hundred to two hundred and fifty dollars; sweet potatoes were selling for as high as $2.75 a bushel, and the difference in conditions then had something to do with the progress and the diminishing of the live stock industry. The southern farmer is rather unstable in his devotion to live stock, and the minute the prices go up he jumps back into cotton, and these other things, instead of continuing to raise live stock. That, I think, is a fact that has not been
1427 brought out here before. You might take the actual production of hogs all through the years for the past ten years, and it would show a gradual increase up to the time we went into the war; it might have shown,—I am not sure—diminishing there. Now, there is every indication that the live stock industry for next year will be better than any year we have had for a long time; those conditions have got to be understood; you cannot take the literal figures on the hog census and understand the situation down here.

Q. For what reasons do you base your opinion on what it will go higher next year, more live stock?

A. Well, the presence of the stock yards here, competitive bidding, the presence also of a large packing house to take care of any increased consumption which comes through the market, and the fact that the farmer knows now that his cotton prices and the prices of these other products are not going to be so high; he feels he can make some money in hogs. There is a distinct tendency to go back into the live stock game.

Q. Do you know when hogs reached their high point on production here, and when they reached the low point?

A. Off hand I don't remember; I can give it to you.

Q. During the year 1920, do you know what cotton sold for—I mean 1919, I dont mean in 1920; do you know what it was?

A. Well, it ranged from—the fluctuation on the market you know was considerable—from 25 to 35 cents.

1428 Q. All right, now, I believe you say that the southern farmer having many money crops, he naturally is in-

clined to grow the one that he thinks there is the most money in?

A. He is growing the one that he has had generations behind him of education on, that is, cotton.

Q. Now, do you know anything about the efforts on the part of Swift & Company to encourage the farmer to raise live stock since it acquired this plant?

A. I do.

Mr. Taylor: I object to that as immaterial to the issues.

Examiner Sadler: The objection will be noted.

Q. Do you know of any effort made on their part to suppress competition, either in the buying of live stock or in the selling of the finished product?

Mr. Taylor: I also object to that as calling for a conclusion of the witness.

Mr. Taylor: I asked him if he knew of his own knowledge.

Examiner Sadler: The objection will be noted.

A. I can conceive of nothing that they have done on the buying of live stock; I am not familiar with the question of the selling of live stock, of their finished products.

Q. Well, then, for this question, confine yourself to that which you know personally; in the buying of live stock, I will get you to state whether or not—can you state whether or not they have ever made any effort to suppress com-
1429 petition in the buying of live stock in Moultrie at this plant?

Mr. Taylor: I object to that, Mr. Examiner, as calling for a conclusion of the witness.

Q. I asked you if you knew that of your own knowledge, whether they had or not, whether they had encouraged live stock or not?

A. I would be compelled to answer that in this way:

Examiner Sadler: The objection will be noted.

A. It seems to me like prima facie evidence that inasmuch as Swift & Company has spent thousands of dollars in educational work through various agencies to encourage the production of live stock, is pretty good evidence that they were not trying to suppress competition.

Q. Now, I will get you to state if you know of your own personal knowledge of any expenditures they have made along that line?

A. I do, sir.

Mr. Taylor: That is objected to.

Q. All right, tell it.

A. Swift & Company have spent a number of hundreds of dollars on the Chamber of Commerce.

Examiner Sadler: The objection will be noted.

A. Swift & Company to my personal knowledge have spent a number of thousands of dollars a year in cooperation with the fair association, which they put out these Hereford bulls, pure-bred chickens; they have spent money for scholarships for encouragement of the corn and pig club work. They
1430 have contributed to the state College of Agriculture, a considerable sum of money for the development of pastures in the southeast—

Q. Pastures for what?

A. For hogs and cattle, pastures for hogs, development of pastures for hogs, and they have at all times been large and liberal factors in anything that tended to build up the agricultural interests of this country.

Mr. Taylor: I move to strike out this last statement as a conclusion.

Q. What do you mean?

Examiner Sadler: Motion to strike will be noted.

Q. What is the pig club work?

A. Well, a pig club is a development of the Federal Farm Demonstration work.

Mr. Taylor: This is all subject to my objection, is it, Mr. Examiner?

Examiner Sadler: I dont see where it is relevant to the issues of the case at all, about this pig club?

Mr. Hill: I want it to go in the record, what the pig club is, your Honor, to show what relation pig clubs have got to the production of live stock, that is the purpose. We expect the witness to show that in every school district, I might say, in this country, there is what is known as pig clubs, composed of boys, and that Swift & Company have started, even in the home and around the firesides of this country, to
1431 encourage and to educate the boys that are coming on the future, the importance of good live stock.

Examiner Sadler: I think it is all irrelevant, but I will let the other statement in, in regard to what Swift has been doing.

Mr. Hill: Well, all right.

Q. Before Swift came here, Mr. Caldwell, do you know what the conditions were with reference to raising live stock?

A. Yes sir, I do.

Q. What kind of hogs and cows did we folks raise down here?

A. Very inferior quality.

Q. What are they commonly known as, hogs?

A. Hogs were known as razor-backs.

Q. And the cows?

A. Cows as piney-woods cows.

Q. Was there any profit in the farmer raising or growing what is known as razor back hogs?

A. Well, the farmer claimed there was.

Mr. Taylor: Read that question, please?

(Question read.)

Mr. Taylor: I object to that, wholly irrelevant.

Examiner Sadler: Do you have any figures as to that point, Mr. Hill?

Mr. Hill: I will connect it up.

Mr. Taylor: Also calls for a conclusion of the wit-
1432 ness and for speculation.

Q. You know something about raising hogs?

A. No, I dont personally, but I have the knowledge as secretary of the Chamber of Commerce and a student of agricultural conditions at all time; I have the knowledge of agriculture, the efforts that have been made, and that are being made, to get the farmer to get rid of the hog that is not profitable, and to raise hogs that are; that is how profits are made in live stock in any section.

Q. Now, I will get you to state whether or not Swift & Company have encouraged the farmers, sought to educate the farmers along the line of producing or raising a better grade of hogs and cows?

A. That was the big problem that Swift & Company were confronted with immediately, in taking over this plant, the unprofitable quality of live stock, the inferior quality of live stock, and of necessity and as a matter of getting business they have spent thousands of dollars along that line. It is a problem that was more peculiar to the south, because there was not any live stock industry here.

Mr. Taylor: I move to strike out the answer as largely not responsive and as being the conclusions of the witness, and being based on hearsay.

Examiner Sadler: Motion to strike will be noted.

Q. Mr. Caldwell, are you a student of agriculture generaliy?

A. Yes sir.

1433 Q. How long have you been a student of agriculture, especially the raising of live stock?

A. Well, I was secretary of the Chamber of Commerce, having run Chambers of Commerce in essentially agricultural sections, it is my business to study it constantly; I have been in Georgia seven years, running that class of institutions.

Q. Did you study agriculture in Oklahoma also?

A. I did.

Q. Especially stock raising?

A. The stock industry as established there; of course, I studied that as one of the big fundamental industries.

Q. In Indiana, did you study it there?

A. Yes sir.

Q. Now, Mr. Caldwell, do you know, by reason of your study of the question, the difference to the farmer, the difference to the packer and the difference to the consumer in having the farmer raise good live stock and the packing house to slaughter good live stock, do you know the difference between slaughtering that kind of live stock for the public and this old razorback brand that we used to have?

A. Well, you only have to eat it to know the difference.

Mr. Taylor: One minute, I thought the answer to that would be yes or no.

A. Yes.

Mr. Taylor: As it is not to be—

1434 Mr. Hill: Yes, he said.

Mr. Taylor: I object to the question.

Q. Well, you know the difference, Mr. Caldwell?

A. Yes sir.

Q. Now, Mr. Caldwell, in that kind of live stock that was produced in this section before Swift came here, the razor back hog and the piney woods cow, was there any competition at all on the part of any packer to buy that kind of stuff?

Mr. Taylor: That is objected to.

A. I should say there was not.

Mr. Taylor: That is objected to as assuming facts not shown, calling for a conclusion of the witness, and speculative.

Examiner Sadler: The objection will be noted.

Q. Do you know—

A. I should say there was absolutely no appreciable competition.

Q. Are you familiar personally with the kind of live stock that all packers want to pack?

A. Yes sir.

Q. Well, do any of them want to pack the old razorback hog and the piney woods cow?

Mr. Taylor: I object to that.

Examiner Sadler: The objection will be noted.

A. No, they don't, because it is unprofitable for a packer to pack into meat, the same as it is unprofitable for the farmer to grow on his place.

1435 By Examiner Sadler: Q. Do you know that it is unprofitable to packers, do you have any figures on the subject?

A. Why, I have the statement of men who are in the packing house business.

By Mr. Hill: Q. Well, and as a student of agriculture what would you say about it?

Mr. Taylor: I move to strike out the answer, then, as hearsay.

Q. As a student of agriculture, would you say —

Examiner Sadler: Just a second. The motion to strike will be sustained.

Q. As a student, then, I will get it this way, Mr. Caldwell; I will get you to give me your opinion, based upon your knowledge of agriculture, especially of stock raising, and as a student of agriculture generally, would you say that it would be as profitable to a packer to pack the old piney woods rooter hog and the piney woods cow as it would to pack the better grade of live stock such as Durocs, Poland-Chinas, Berkshires, Herefords, Hampshires, Chester-Whites, that kind of live stock?

Mr. Taylor: Mr. Examiner, I object to this as not proper subject of opinion evidence, but a proper subject for accurate computation, if it were relevant to the issues. As it is not relevant, I also object to it on that ground.

1436 Examiner Sadler: The objection will be sustained.

Mr. Hill: I expect this witness to swear, then, Mr. Examiner, that he is a student of stock raising, that he is familiar with the various breeds of live stock, that he is familiar with the old piney woods rooter hog and the piney woods cow, and that from his knowledge of these breeds of live stock, that it would be unprofitable to the farmer to raise

the razor-back hog and the piney woods cow, and unprofitable for the packer to pack either one of those classes of live stock, and that he bases his opinion upon this question solely upon his own study of agriculture and especially the breeding of these various kinds of live stock.

Q. Now, Mr. Caldwell, I will get you to state whether or not Swift & Company encouraged the farmer to do away with the razor-back hog and the piney woods cow and to go to raising a better grade of animals?

Mr. Taylor: Oh, I object to that, Mr. Examiner.

Examiner Sadler: The objection will be sustained.

Mr. Hill: I expect the witness to testify and state in my place that he will testify that of his own personal knowledge Swift & Company encouraged the farmer to do away with this poor class of live stock and to put on their farms, probably for the first time in this section, such hogs as Duroc Jerseys, Poland Chinas, Chester Whites, and the various better grades of hogs, and Hereford cattle, shorthorn cat-

1437 tle and such grades as that of cows, and that in his opinion, based upon his knowledge and study and experience as—in the study of agriculture and live stock raising, that when this was done competition in this section among all packers was increased in the buying of hogs and cows; and that before this was done there was no competition in the buying of these animals, for the reason that none of the packers desired to buy either one of them, and that thereby competition was increased by Swift & Company.

Q. Has this plant since it came here, Swift & Company's plant, in this locality, increased or decreased competition?

Mr. Taylor: That is objected to, Mr. Examiner, as calling for a conclusion of the witness.

Q. Increased or decreased competition in the sale of meat products?

Mr. Taylor: That is objected to, calling for a conclusion of the witness.

By Examiner Sadler: Q. Do you buy and sell meat?

A. No sir.

Examiner Sadler: The objection will be sustained.

By Mr. Hill: Q. Well, now, let's see if you dont have some knowledge about it that is competent.

Mr. Taylor: Well, if he has, bring out the facts.

Mr. Hill: I am fixing to fetch her forward right now.

1438 Q. Mr. Caldwell, how long have you lived here?

A. I have been here since the latter part of 1917.

Q. Have you had occasion to know about whether or not there was more or less meat products or various products in the market here now than there was before Swift came here?

Mr. Taylor: That is objected to as wholly irrelevant.

Q. There was more of them in the market?

Examiner Sadler: The objection will be noted.

A. Why, as a matter of general observation, I think that anybody can probably see more products here, yes.

Q. Of various packers?

A. Of all packers, yes sir.

Q. The meat products that are sold in this community, Mr. Caldwell, I will get you to state whether or not there are drummers from various packing houses over the country coming here and selling the trade here weekly, soliciting orders from the trade here?

Mr. Taylor: That is objected to as immaterial to the issues of this case.

Q. I am talking about meat products now, such as bacon, ham, and the stuff generally.

Mr. Taylor: Well, I still object to it. The issues here are whether competition between the Moultrie Packing Company and Swift & Company were eliminated by the purchase of the stock of the Moultrie Packing Company by Swift & Company.

Mr. Hill: Well, your Honor, this statute here will
1439 receive at the hands of the Trade Commission a reasonable construction.

Mr. Taylor: That is what I am expecting.

Mr. Hill: Yes sir; they will take into consideration the evil which that statute was designed to eradicate.

Mr. Taylor: That is exactly what I am expecting.

Examiner Sadler: The objection will be sustained.

Mr. Hill: I have not got through asking the question.

Examiner Sadler: Did you finish it?

Mr. Hill: No sir.

Mr. Taylor: Pardon me, I thought you had finished your question, or I would not have interposed the objection.

Examiner Sadler: Pardon me.

Q. Mr. Caldwell, from your constantly coming in contact here with people in Moultrie, the stores, supply houses that sell meat products, do you or not know whether since Swift & Company came here that competition in the sale of finished meat products has been increased in Moultrie?

Mr. Taylor: That is objected to for the same reasons, incompetent, immaterial and irrelevant, that I objected to the previous question.

Examiner Sadler: The objection will be sustained.

Mr. Hill: I expect the witness, then, your Honor and I state in my place that he will testify to the fact that as secretary of the Chamber of Commerce here he comes in daily contact with the merchants, and especially that class of
1440 merchants that sell meat products, and that since Swift & Company established this plant here he has discovered and observed the fact that there is more competition in the sale of finished meat products in Moultrie than there was before; that every week drummers and representatives of other packing houses over the country, representing Armour and the other packers come here to sell and compete with Swift in the sale of finished meat products, and that before Swift came here this condiiton did not exist, to any appreciable extent.

Mr. Taylor: But they do not compete with Moultrie, because the Moultrie Packing Company—

Mr. Hill: Is out of business.

Mr. Taylor: Is out of business.

Mr. Hill: And it would be folly, and the Trade Commission will say so, to consider that statute to mean that we must limit the testimony solely to the question of whether or not competition was destroyed between Swift & Company and that plant; that would be so unreasonable as to be absolutely foolish. Of course it goes without saying that it is destroyed because it acquired the plant.

Mr. Taylor: Very glad to get that admission.

Mr. Hill: If it is a violation of the law for one plant to acquire the physical assets and the stock of another, if that bare fact alone makes a fellow guilty, why, they are guilty, but does this court think for a moment that the Trade
1441 Commission will not extend its reasoning and its investigation further than around that narrow, limited circle? The question is did it thereby lessen competition, in the spirit of this act. Under that view of the law, if your Honor please, we offer this testimony of Mr. Caldwell; and I would like to have the court to say whether or not his testimony is relevant under the act, and under the allegations of this complaint. Does you Honor hold that this man's testimony on the vital question of whether or not competition

has been increased or lessened in the sale of meat products in Moultrie would be irrelevant, when that is the allegation made in your complaint, and your telegram from the court, the Trade Commission saying confine your testimony to this locality? That is where we confine it, the suppression of competition in this locality.

Mr. Taylor: That admission is that competition is entirely eliminated between Swift and the Moultrie Packing Company.

Examiner Sadler: Well, we can get the facts here, the facts are available.

Mr. Hill: This man has testified, or will testify as I have stated there, that in this particular locality, not only is the buying of live stock increased, not only has competition increased in the buying of it, but that in the sale of the finished product, the packed article, such as bacon, hams, shoulders, and the other various things that are packed by Swift and the other packers, that competition has been increased here.

1442 Mr. Taylor: Mr. Examiner, it is a very peculiar thing, with all of the opportunities that these witnesses testify that they have to know the facts, that there is not one of them that comes in here and offers to give us any definite facts, but all of them want to give us their guesses and their conclusions.

Mr. Hill: He can object to it on that ground, and let the court say.

Mr. Taylor: I have been listening here to see if Mr. Hill would ask this man to enumerate the concerns which are selling meat any particular time, at any particular time.

Mr. Hill: I am going to try to get down to that. You understand, your Honor, I have got to find out whether he knows or not, then I will say, "How do you know it?" Then I will develop it.

Q. What is your answer Mr. Caldwell, as to whether or not in the sale of finished meat products here there has been more competition since Swift & Company came here?

Mr. Taylor: I object to that as a conclusion based upon no facts.

Q. Do you know whether or not there has been an increase or decrease in competition?

Mr. Taylor: I object to that.

Examiner Sadler: The objection will be noted.

A. Yes sir, as a matter of general observation, I believe

that there—that other packers than Swift & Company
1443 have come into this territory, and that they are trying their best to sell their products here, just the same as Swift & Company is.

Q. How do you know that?

Mr. Taylor: I think that the answer shows that my objection is well taken, therefore, I move to strike it out.

Mr. Hill: Let's see if it is.

Examiner Sadler: The motion to strike will be noted.

Q. How do you know that?

Mr. Taylor: He has not said that he knows, he said that he believed.

Mr. Hill: The only way a man can know a thing is by believe; all knowledge is based upon believe; we dont know there is a God, but we believe it.

A. My knowledge is based on the fact that we see these various products in the butcher shops.

By Mr. Taylor: Q. What do you mean by these various products?

A. Meat products with respective brands of these companies?

Q. Which companies?

A. Armour & Company, Morris & Company, along with Swift & Company.

By Mr. Hill: Q. You say you see—

A. Do you include by your statement of packing house products provisions as well as meat, strictly meat products?

1444 Q. Yes, just meat products?

A. Just meat products?

Q. Yes, just meat products, hams, provisions generally.

A. Well, do you mean canned goods.

Q. No, canned goods might not be relevant; canned meats would be all right; you see all of them, then, stock in butcher shops, meat houses here, brands of meat put out by other people?

A. Yes sir.

Mr. Hill: The withness with you, Mr. Taylor.

Cross-Examination by Mr. Taylor.

Q. Mr. Caldwell, there are records kept at the stock yards, of the transactions there, are there not?

A. I assume as a business proposition they do that.

Q. You are secretary of the stock yards, arent you?
A. Not at the present time.
Q. You are not in touch with the stock yards at all?
A. I am from the standpoint of keeping informed of the situation out there for the benefit of the farmers.
Q. Well, now, will you tell me what records they keep up there as to the stock which comes in to the yards, and the stock, which is sold?
A. I am not fully familiar with their exact system of records in detail; from start to finish the thing I was interested in was the price of hogs when the market opens up there
1445 in the morning, because the farmers come into my office and inquire; I call up out there and get the market.
Q. You have never seen the records there, then, is that correct?
A. No, I have never seen the records.
Q. You dont know how many hogs or cattle the records show as having been sold at the stock yards?
A. I have heard some figures of approximately 24,000.
Q. I am not asking you what you have heard, I am asking you what you know from the records?
A. Well, if I wanted to get some information about the Moultrie Stock Yards, I would be likely to talk to the manager; he ought to know; I dont know; I would go to the records and find out for mself.
Q. Tell me what records are kept, if you know about those?
A. What records are kept?
Q. Yes?
A. The total of the hogs and cattle receipts are kept there, I dont know whether it is kept on a piece of white paper or a piece of yellow paper, or what it is kept on; they naturally keep records of their business.
Q. Just what do those records of the business show?
A. I don't know in detail.
Q. Do you know whether they show to whom sales are made?
A. No, I dont.
Q. Do you know whether they show the price at
1446 which sales are made?
A. No, my knowledge is from the commission men out there, who quote me over the phone.
Q. From what somebody told you?

A. Well, I dont know, who ought to know the market any better than commission men.

Q. Who are the commission men out there?

A. Hall Commission Company, Moultrie Commission Company, Young Commission Company, and Swift & Company, I presume would be considered another buyer.

Q. Do Swift & Company act as commission merchants there?

A. No.

Q. Are there any buyers aside from Swift & Company who go there and buy direct—or first, let me ask you, does Swift & Company buy direct or through a commission company?

A. I dont know whether—I presume they buy both ways—that is an assumption, I dont know that they ever actually have.

Q. Now, are there other buyers than Swift & Company that come in and buy direct?

A. These commission firms buy on order for other outside folks.

Q. But all orders for all outside buyers are placed through the commission firms, is that correct?

A. I believe that is the general practice, although now and again I hear of somebody who is not a commission firm coming out there and buying hogs off the yards, a 1447 farmer might come out there and buy feeders.

Q. Not buying through one of these commission merchants?

A. No, they would buy through the general operation of the stock yards, which operates through the commission firms.

Q. Well, now, supposing a farmer came here and wanted to buy a certain number of hogs, would he go on the exchange or whatever you call it and bid for them himself or would he go to one of these commission merchants like the Hall Commission Company and ask them to buy for him a certain number of hogs?

A. He might do either one of them.

Q. And that would be so with any buyer?

A. I believe the buyers of hogs, of a large volume, probably handle it through the commission firms.

Q. That is, all excepting Swift & Company?

A. I stated that I was not fully informed as to whether Swift & Company constantly bought through commission

firms or bought through representatives whom they send there.

Q. Now, are these three commission firms that you mentioned the only commission firms there that are operating?

A. That is all that I know of.

Q. Do you mean by that that there may be more that you dont know of?

A. I rather think that is all of them.

Q. Now, just what kind of hogs are sold there at the stock yards?

1448 A. Well, there is a better—an increasingly better grade of hogs comes into this stock yards, into this market every year, that is what I mean by better grade, better blood, and the hogs are fed out into packer weights, from 165 to 200 pounds; there is a lesser percentage of these light hogs, say running around a hundred pounds, because of the educational campaign we are trying to put on, and the farmers are feeding the hogs into number ones.

Q. You mean to say that the hogs are getting heavier that are coming in?

A. Yes sir.

Q. Is there any other change?

A. Well, better blood, better grade.

Q. Are they still peanut hogs?

A. Some of them are at certain seasons of the year; at other seasons of the year there are not.

Q. Will the records there show what are peanut fed and what are not?

A. I should not think so.

Q. Now, when do these peanut fed hogs come in, what season of the year?

A. Well, they come in on the heavy run in November, and December, along through there; those hogs are mostly farmed in, we will say along in March, April, May, they go through the fall crop and come in onto the market in

1449 November and December, along through there, you see.

Q. When are the corn-fed hogs, when do they come in, what season?

A. Well, that is not so much the season as the idea of the farmers; a great many of our farmers are of the opinion that the cheapest way to make a hog is to feed peanuts and forage crops; some few of our farmers, what I would call the better formers, have come to the conclusion that there is more profit in hard feeding, corn and forage, and eliminat-

ing the peanuts. That is mainly a matter of education. You understand they grow the peanut fed because they are easier to raise; it is simply a matter of turning the hog into the peanut field; there is no labor in that.

Q. No cost involved other than sowing the peanuts, is there?

A. That is about it, except your investment in facilities, that insure you pure drinking water for your hogs, sanitary feeds, everything of that kind.

Q. But that is necessary with the corn-fed as well as the peanut fed, isnt it?

A. Yes.

Q. Now, when will the corn-fed hogs come in, what season of the year?

A. I should say there is no particular season for them; the generally harder hogs, not necessarily corn-fed hogs, but the generally harder hogs, may come in during the sum-
1450 mer season, we will say, after the peanuts are out of the way; in other words, when the farmer has not got peanuts, he will feed these other feeds.

Q. Now, you testified that Armour and Morris and Swift were selling provisions here in Moultrie, that you saw them; that is at the present time, I assume you meant to say?

A. Well, I made the statement during the time—within the last year.

Q. Yes. Now, as a matter of fact you have also seen them ever since you came here in the fall of 1917, havent you?

A. Possibly that is true.

Q. You would not want to testify here that it was not true, would you?

A. Not that there was absolutely none of them, no.

Mr. Taylor: That is all.

Redirect Examination by Mr. Hill.

Q. Mr. Caldwell, would you or not naturally see more of Swifts' products here by reason of the fact that he is located here in this community and has helped build up the community?

Mr. Taylor: I object to the form of the question; I object to the question as assuming facts not shown.

Examiner Sadler: The objection will be noted.

Mr. Hill: I will show you facts.

Q. Has Swift & Company helped to build up this community?

1451 Mr. Taylor: I object to that as calling for a conclusion of the witness.

A. Let me answer the other question first.

Q. All right, answer it then.

A. The other question was whether or not Swift & Company sold more than other folks did or not?

Q. Yes?

A. I have no definite facts and figures to show that; I should on general appearances say that they do, although the exigencies of business might in some instances make it the contrary of that.

Q. All right. Mr. Caldwell, take the hogs generally that are sold here, I will ask you to state whether or not, if you know, that the larger per cent of them, number of them, are peanut hogs through this country?

Mr. Taylor: I object to that.

Q. If you know, I said.

Examiner Sadler: The objection will be noted.

A. I do know.

Q. All right, what are they. Are there more of them peanuts?

A. Naturally there is more peanut hogs.

Q. Can we in this country grow corn as successfully as they can in the west?

Mr. Taylor: I also object to that.

Examiner Sadler: The objection will be noted.

1452 Mr. Taylor: Irrelevant and immaterial, and calling for a conclusion of the witness.

A. Well, the agricultural census figures of the United States prove that very conclusively.

Q. What do they show, are you familiar with them?

A. They show that the South Atlantic runs fifteen to eighteen bushels; further up the country it runs twenty-five.

Q. All right; now, what reason is there, Mr. Caldwell, why a farmer down in this country is compelled to fatten his hogs on peanuts; can he raise corn successfully or not, that is, enough of it to make it profitable to feed it to hogs?

A. Well, that is somewhat of a moot question with agricultural authorities. Under the present progress in agriculture that our farmers operate here, they think maybe, in as much as he has not got very far along in experience and knowledge, that he might be able to make at least nearly as

much out of peanut fed hogs as he can make out of hard feeds. Later on, with more experience and more knowledge, I believe he will ultimately come to see that probably hard fed hogs is the most profitable.

Q. Now, I will get you to answer this question: do you know of your own knowledge whether or not Swift & Company encourages the farmer to fatten them on corn or on peanuts?

A. They conduct,—

Mr. Taylor: One minute, yes or no, is the answer to that.

A. Yes.

1453 Q. Mr. Caldwell, I probably asked my question a little bit differently than I ought to have. Do you know whether or not Swift & Company encourages the farmers to produce a hard hog? What is the difference in the meat of a hog fattened on corn and other hard substances and on peanuts, do you know?

A. Well, the meat is much firmer, cuts out much better, and it performs better in the frying pan, that is the main reason.

Q. When fattened on corn?

A. On hard feed.

Q. On hard feed; all right. Now, how does she perform in the frying pan when she is fattened on peanuts?

Mr. Taylor: I object to that as irrelevant and immaterial.

Examiner Sadler: I think this is all immaterial and irrelevant.

Mr. Hill: Well, I agree with you that maybe we ought to confine it to something bigger than the frying pan.

Q. How does she perform on the market, how does she perform when you come to sell a peanut hog?

Mr. Taylor: I object to that as calling for a conclusion of the witness, and an opinion where opinion evidence is not proper.

Q. I will get you to state, Mr. Caldwell, whether or not you know whether there is a greater demand for hard hogs, that is, meat produced from hard hogs in the market than there is for peanut hogs?

Mr. Taylor: Where?

1454 Mr. Hill: In this locality.

A. I don't know, that would be a rather difficult question to answer; it is a peculiar fact that many of our farmers who raise peanut fed hogs to sell the packers step into the store and buy western meat, western pork.

Q. What is that western stuff fed on?
A. It is fed on hard food, because they don't grow peanuts in many sections of the north.
Q. All right, then, they prefer to buy hard fed pork?
A. I don't know whether that preference extends to everybody or not.
Q. I am talking about what you know about it.
Examiner Sadler: I think this is all getting out of the issues of the case; I don't consider it relevant.
Q. I will get you to state whether or not it is true that in this country that practically all of the farmers fatten their hogs on peanuts, and then top them off with a little corn and them dump them on the market?
A. That is for the hogs that are farrowed in the spring, that is the easiest and most practical way to put them on the market, possibly, the volume of hogs that are spring farrowed.
Q. All right. Is that the typical southern hog?
A. The peanut fed hog?
Q. Yes sir. Top them off with corn to sort of fool the hog?
A. Yes, that is the typical method of fattening the hogs here.
1455 Mr. Hill: That is all.

Recross Examination by Mr. Taylor.

Q. Very fine flavored hog, also, isn't it?
A. There is a difference of opinion on that; there is a good many people that prefer the peanut hog, and a great many people that prefer the hard.
Mr. Taylor: That is all.
Mr. Hill: That is all.
Examiner Sadler: The witness is excused.
(Witness excused)
Examiner Sadler: Take a recess until 2:00 o'clock.

(Whereupon, at 1:00 o'clock P. M. July 14, 1921, a recess was taken until 2:00 o'clock P. M.)

F N S.